

PART 319—FOREIGN QUARANTINE NOTICES**Subpart—Requests To Amend The Regulations**

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AUTHORITY: 7 U.S.C. 450 and 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

SOURCE: 24 FR 10788, Dec. 29, 1959, unless otherwise noted.

Subpart—Requests To Amend The Regulations**§ 319.5 Requirements for submitting requests to change the regulations in 7 CFR part 319.****(a) Definitions.**

Commodity. A plant, plant product, or other agricultural product being moved for trade or other purpose.

(b) Procedures for submitting requests and supporting information. Persons who request changes to the import regulations contained in this part and who wish to import plants, plant parts, or plant products that are not allowed importation under the conditions of this part must file a request with the Animal and Plant Health Inspection Service (APHIS) in order for APHIS to consider whether the new commodity can be safely imported into the United States. The initial request can be formal (e.g., a letter) or informal (e.g., made during a bilateral discussion between the United States and another country), and can be made by any person. Upon APHIS confirmation that granting a person's request would re-

quire amendments to the regulations in this part, the national plant protection organization of the country from which the commodity would be exported must provide APHIS with the information listed in paragraph (d) of this section before APHIS can proceed with its consideration of the request; requests that are not supported with this information in a timely manner will be considered incomplete and APHIS may not take further action on such requests until all required information is submitted.

(c) Addresses. The national plant protection organization of the country from which commodities would be exported must submit the information listed in paragraph (d) of this section to: Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737.

(d) Information. The following information must be provided to APHIS in order for APHIS to consider a request to change the regulations in part 319:

(1) Information about the party submitting the request. The address, telephone and fax numbers, and e-mail addresses of the national plant protection organization of the country from which commodities would be exported; or, for requests that address a multi-country region, the address, telephone and fax numbers, and e-mail addresses of the exporting countries' national and regional plant protection plant protection organizations.

(2) Information about the commodity proposed for importation into the United States. (i) A description and/or map of the specific location(s) of the areas in the exporting country where the plants, plant parts, or plant products are produced;

(ii) The scientific name (including genus, species, and author names), synonyms, and taxonomic classification of the commodity;

(iii) Identification of the particular plant or plant part (i.e., fruit, leaf, root, entire plant, etc.) and any associated plant part proposed for importation into the United States;

(iv) The proposed end use of the imported commodity (e.g., propagation, consumption, milling, decorative, processing, etc.); and

(v) The months of the year when the commodity would be produced, harvested, and exported.

(3) *Shipping information:* (i) Detailed information as to the projected quantity and weight/Volume of the proposed importation, broken down according to varieties, where applicable, and;

(ii) Method of shipping in international commerce and under what conditions, including type of conveyance, and type, size, and capacity of packing boxes and/or shipping containers.

(4) *Description of pests and diseases associated with the commodity*¹ (i) Scientific name (including genus, species, and author names) and taxonomic classification of arthropods, fungi, bacteria, nematodes, virus, viroids, mollusks, phytoplasmas, spiroplasmas, etc., attacking the crop;

(ii) Plant part attacked by each pest, pest life stages associated with each plant part attacked, and location of pest (in, on, or with commodity); and

(iii) References.

(5) *Current strategies for risk mitigation or management.* (i) Overview of agronomic or horticultural management practices used in production of the commodity, including methods of pest risk mitigation or control programs; and

(ii) Identification of parties responsible for pest management and control.

(e) *Additional information.* None of the additional information listed in this paragraph need be provided at the same time as information required under paragraphs (a) through (d) of this section; it is required only upon request by APHIS. If APHIS determines that additional information is required in order to complete a pest risk analysis in accordance with international standards for pest risk analysis, we will notify the party submitting the re-

quest in writing what specific additional information is required. If this information is not provided, and is not available to APHIS from other sources, a request may be considered incomplete and APHIS may be unable to take further action on the request until the necessary additional information is submitted. The additional information may include one or more of the following types of information:

(1) *Contact information:* Address, phone and fax numbers, and/or e-mail address for local experts (e.g., academicians, researchers, extension agents) most familiar with crop production, entomology, plant pathology, and other relevant characteristics of the commodity proposed for importation.

(2) *Additional information about the commodity:* (i) Common name(s) in English and the language(s) of the exporting country;

(ii) Cultivar, variety, or group description of the commodity;

(iii) Stage of maturity at which the crop is harvested and the method of harvest;

(iv) Indication of whether the crop is grown from certified seed or nursery stock, if applicable;

(v) If grown from certified seed or stock, indication of the origin of the stock or seed (country, State); and

(vi) Color photographs of plant, plant part, or plant product itself.

(3) *Information about the area where the commodity is grown:* (i) Unique characteristics of the production area in terms of pests or diseases;

(ii) Maps of the production regions, pest-free areas, etc.;

(iii) Length of time the commodity has been grown in the production area;

(iv) Status of growth of production area (i.e., acreage expanding or stable); and

(v) Physical and climatological description of the growing area.

(4) *Information about post-harvest transit and processing:* (i) Complete description of the post-harvest processing methods used; and

(ii) Description of the movement of the commodity from the field to processing to exporting port (e.g., method of conveyance, shipping containers, transit routes, especially through different pest risk areas).

¹When a change is being sought to the conditions governing the importation of a commodity that is already authorized for importation into the United States, an update to or confirmation of previously submitted pest and disease information, rather than a new, complete submission of that information, may be appropriate. Persons seeking such a change may contact APHIS for a determination as to whether an update will be appropriate in a particular case.

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(5) *Shipping methods:* (i) Photographs of the boxes and containers used to transport the commodity; and

(ii) Identification of port(s) of export and import and expected months (seasons) of shipment, including intermediate ports-of-call and time at intermediate ports-of-call, if applicable.

(6) *Additional description of all pests and diseases associated with the commodity to be imported:* (i) Common name(s) of the pest in English and local language(s);

(ii) Geographic distribution of the pest in the country, if it is a quarantine pest and it follows the pathway;

(iii) Period of attack (e.g., attacks young fruit beginning immediately after blooming) and records of pest incidence (e.g., percentage of infested plants or infested fruit) over time (e.g., during the different phenological stages of the crops and/or times of the year);

(iv) Economic losses associated with pests of concern in the country;

(v) Pest biology or disease etiology or epidemiology; and

(vi) Photocopies of literature cited in support of the information above.

(7) *Current strategies for risk mitigation or management:* (i) Description of pre-harvest pest management practices (including target pests, treatments [e.g., pesticides], or other control methods) as well as evidence of efficacy of pest management treatments and other control methods;

(ii) Efficacy of post-harvest processing treatments in pest control;

(iii) Culling percentage and efficacy of culling in removing pests from the commodity; and

(iv) Description of quality assurance activities, efficacy, and efficiency of monitoring implementation.

(8) *Existing documentation:* Relevant pest risk analyses, environmental assessment(s), biological assessment(s), and economic information and analyses.

(f) *Availability of additional guidance.* Information related to the processing of requests to change the import regulations contained in this part may be

found on the APHIS Web site at <http://www.aphis.usda.gov/ppq/pral/>.

(Approved by the Office of Management and Budget under control number 0579–0261)

[71 FR 30567, May 30, 2006]

Subpart—Foreign Cotton and Covers

QUARANTINE

§ 319.8 Notice of quarantine.

(a) Pursuant to sections 411–414 and 434 of the Plant Protection Act (7 U.S.C. 7711–7714 and 7754), and after the public hearing required thereunder, the Administrator of the Animal and Plant Health Inspection Service hereby determines that the unrestricted importation into the United States from all foreign countries and localities of (1) any parts or products of plants of the genus *Gossypium*, including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber (not including yarn, thread, and cloth); cottonseed hulls, cake, meal, and other cottonseed products, except oil; cotton waste, including gin waste and thread waste; and any other unmanufactured parts of cotton plants; and (2) second-hand burlap and other fabrics, shredded or otherwise, which have been used or are of the kinds ordinarily used, for containing cotton, grains (including grain products), field seeds, agricultural roots, rhizomes, tubers, or other underground crops, may result in the entry into the United States of the pink bollworm (*Pectinophora gossypiella* (Saund.)), the golden nematode of potatoes *Heterodera rostochiensis* Wr.), the flag smut disease (*Urocystis tritici* Koern.), and other injurious plant diseases and insect pests, and said Administrator hereby further determines, that, in order to prevent the introduction into the United States of said plant diseases and insect pests, which are new to or not heretofore widely prevalent or distributed within and throughout the United States, it is necessary to forbid the importation into the United States of the plants and products, including fabrics, specified above, except as permitted in the regulations supplemental

hereto. Hereafter the plants and products specified above shall not be imported or offered for entry into the United States from any foreign country or locality except as permitted by said regulations, and the plants and products permitted by the regulations to be imported or offered for entry shall be subject to sections 411-414 and 434 of the Plant Protection Act (7 U.S.C. 7711-7714 and 7754). *Provided*, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find the existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent the restrictions contained in any of such regulations, he or she shall publish such findings in the administrative instructions, specifying the manner in which the restrictions shall be made less stringent, whereupon such modification shall become effective; or he or she may, upon request in specific cases, when the public interests will permit, authorize such importation under conditions specified in the permit to carry out the purposes of this part that are less stringent than those contained in the regulations.

(b) As used in this section the term "United States" shall have the meaning ascribed to it in the regulations supplemental hereto.

[24 FR 10788, Dec. 29, 1959, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 66 FR 21054, Apr. 27, 2001; 71 FR 10605, Mar. 2, 2006]

§319.8a Administrative instructions relating to the entry of cotton and covers into Guam.

The plants and products specified in §319.8(a) may be imported into Guam without further permit, other than the authorization contained in this paragraph. Sections 319.8-2 and 319.8-3 shall not be applicable to such importations. In addition, such importations need not comply with the requirements of §319.8-4 relating to notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by the importer at the time of importation. Sections 319.8-5 through 319.8-27 shall not be applicable

to importations into Guam. Inspection of such importations may be made under the general authority of §330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with §330.106 of this chapter.

REGULATIONS; GENERAL

§319.8-1 Definitions.

For the purposes of the regulations in this subpart, the following words shall be construed, respectively, to mean:

Approved. Approved by the Deputy Administrator of the Plant Protection and Quarantine Programs.

Approved areas of Mexico. Any areas of Mexico, other than those described in paragraphs (q) and (r) of this section, which are designated by the Deputy Administrator as areas in which cotton and cotton products are produced and handled under conditions comparable to those under which like cotton and cotton products are produced and handled in the generally infested pink bollworm regulated area in the United States.

Approved fumigation facilities. Approved vacuum fumigation plant at a port where an inspector is available to supervise the fumigation.

Approved mill or plant. A mill or plant operating under a signed agreement with the Plant Protection and Quarantine Programs required for approval of a mill or plant as specified in §319.8-8(a)(2).

Authorized. Authorized by the Deputy Administrator of the Plant Protection and Quarantine Programs.

Compressed. Compressed or pressed and baled or packaged to a density greater than approximately 20 pounds and less than approximately 28 pounds per cubic foot.

Compressed to high density. Compressed or pressed and baled or packaged to a density of approximately 28 or more pounds per cubic foot.

Contamination (contaminate). Containing or bearing whole cottonseed or seed cotton or other material which may carry the pink bollworm, the golden nematode of potatoes, the flag smut

disease, or other injurious plant diseases or insect pests. (The verb contaminate shall be construed accordingly.)

Cotton. Parts and products of plants of the genus *Gossypium*, including seed cotton; cottonseed; cotton lint, linters and other forms of cotton fiber, not including yarn, thread and cloth; cottonseed hulls, cake, meal, and other cottonseed products, except oil; waste; and all other unmanufactured parts of cotton plants.

Cottonseed. Cottonseed from which the lint has been removed.

Covers. Second-hand burlap and other fabrics, shredded or otherwise, including any whole bag, any bag that has been slit open, and any part of a bag, which have been used, or are of the kinds ordinarily used, for containing cotton, grains (including grain products), field seeds, agricultural roots, rhizomes, tubers, or other underground crops. Burlap and other fabrics, when new or unused are excluded from this definition.

Deputy Administrator, Plant Protection and Quarantine Programs. The Deputy Administrator of the Plant Protection and Quarantine Programs, or any officer or employee of the Plant Protection and Quarantine Programs to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

Gin trash. All of the material produced during the cleaning and ginning of seed cotton, bollies or snapped cotton except the lint, cottonseed, and gin waste.

Inspector. A properly identified employee of the U.S. Department of Agriculture or other person authorized to enforce the provisions of the Plant Protection Act.

Lint. All forms of raw ginned cotton, either baled or unbaled, except linters and waste.

Linters. All forms of cotton fiber separated from cottonseed after the lint has been removed, excluding so-called hull fiber.

North, northern. When used to designate ports of arrival, these terms mean the port of Norfolk, Virginia, and all Atlantic Coast ports north thereof, ports along the Canadian border, and Pacific Coast ports in the States of

Washington and Oregon. When used in a geographic sense to designate areas or locations, these terms mean any State in which cotton is not grown commercially. However when cotton is grown commercially in certain portions of a State, as is the case in Illinois, Kansas, and Missouri, these terms include those portions of such State as may be determined by the Deputy Administrator of the Plant Protection and Quarantine Programs as remote from the main area of cotton production.

Northwest Mexico. All of the State of Baja California, Mexico, and that part of the State of Sonora, Mexico, lying between San Luis Mesa and the Colorado River.

Permit. A form of authorization to allow the importation of cotton or covers in accordance with the regulations in this subpart.

Person. Any individual, firm, corporation, company, society, or association, or any organized group of any of the foregoing.

Pink bollworm regulated area; generally infested pink bollworm regulated area. The pink bollworm regulated area consists of those States or parts thereof designated as regulated area in Administrative Instructions issued under §301.52-2 of this chapter. The generally infested pink bollworm regulated area is that part of the regulated area designated as generally infested in the said Administrative Instructions.

Plant Protection and Quarantine Programs. The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, of the United States Department of Agriculture.

Root crop. The underground crop portions of any plants.

Samples. Samples of lint, linters, waste, cottonseed cake, and cottonseed meal, of the amount and character usually required for trade purposes.

Seed cotton. Cotton as it comes from the field.

Treatment. Procedures administratively approved by the Deputy Administrator of the Plant Protection and Quarantine Programs for destroying infestations or infections of insect pests or plant diseases, such as fumigation, application of chemicals or dry or

moist heat, or processing, utilization, or storage.

Uncompressed. Baled or packaged to a density not exceeding approximately 20 pounds per cubic foot.

United States. Any of the States, the District of Columbia, Guam, Puerto Rico, or the Virgin Islands of the United States.

Utilization. Processing or manufacture, in lieu of fumigation at time of entry, at a mill or plant specifically approved by the Deputy Administrator of the Plant Protection and Quarantine Programs.¹

Waste. All forms of cotton waste derived from the manufacture of cotton lint, in any form or under any trade designation, including gin waste and thread waste; and waste products derived from the milling of cottonseed. Gin trash is not within the definition of waste.

West Coast of Mexico. The State of Sinaloa, the State of Sonora (except that part of the Imperial Valley lying between San Luis Mesa and the Colorado River), and the Southern Territory of Baja California, in Mexico.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5389, June 7, 1962; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 66 FR 21055, Apr. 27, 2001]

CONDITIONS OF IMPORTATION AND ENTRY OF COTTON AND COVERS

§319.8-2 Permit procedure.

(a) Except as otherwise provided for in §§319.8-10 and 319.8-18, permits shall be obtained for importations into the United States of all cotton and covers. Permits will be issued only for cotton and covers authorized entry under §§319.8-6 through 319.8-20. Persons desiring to import cotton or covers under §§319.8-6 through 319.8-20 shall, in advance of departure of such material from a foreign port, submit to the Plant Protection and Quarantine Programs an application² stating the

name and address of the importer, the country from which such material is to be imported, and the kind of cotton or covers it is desired to import. Applications to import cottonseed shall state the approximate quantity and the proposed United States port of entry. Applications to import lint, linters, or waste shall state whether such materials are compressed.

(b) Applications to import lint, linters, or waste at a port³ other than one in the North, in California, or on the Mexican Border shall also specify whether the commodity is compressed to high density.

(c) Applications for permits may be made orally or on forms provided for the purpose by the Plant Protection and Quarantine Programs, or may be made by a letter or telegram containing all the information required by this section.

(d) Upon receipt and approval of such application by the Plant Protection and Quarantine Programs, an individual or continuing permit will be issued authorizing the importation and specifying the port of entry and the conditions of entry. A copy of the permit will be supplied to the importer.

(e) Upon receipt of an application to import lint, linters, waste, or covers, without treatment, for utilization under agreement as defined in §319.8-8(a)(2), an investigation will be made by an inspector to determine that the receiving mill or plant is satisfactorily located geographically, is equipped with all necessary safeguards, and is apparently in a position to fulfill all precautionary conditions to which it may agree. Upon determination by the inspector that these qualifications are fulfilled, the owner or operator of the mill or plant may sign an agreement specifying that the required precautionary conditions will be maintained. Such signed agreement will be a necessary requisite to the release at the port of entry of any imported lint, linters, waste, or covers for forwarding to and utilization at such mill or plant in lieu of vacuum fumigation or other

¹ A list of approved mills and plants may be obtained from the Plant Protection and Quarantine Programs, Room 710, U.S. Appraisers Stores, 408 Atlantic Ave., Boston, Mass. 02210.

² Applications for permits should be made to Plant Importations Branch, Plant Protec-

tion and Quarantine Programs, 209 River Street, Hoboken, N.J. 07030.

³ Including ports in Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

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treatment otherwise required by this subpart. Permits for the importation of such materials will be issued in accordance with paragraph (a) of this section.

(f) Permits for importation of any cotton or covers are conditioned upon compliance with all requirements set forth therein and such additional requirements in this subpart as are in terms applicable thereto. Failure to comply with any such requirement will be deemed to invalidate the permit. Permits may also be cancelled or may be refused as provided in §319.8-3, or entry denied as provided in §§319.8-11, 319.8-12, and §319.8-13.

(g) If through no fault of the importer a shipment of cotton or covers arrives at a United States port in advance of the issuance of a permit, it may be held, under suitable safeguards prescribed by the inspector at the port, in Customs custody at the risk of the importer, pending issuance of a permit, for a period not exceeding 20 days.

(h) Pending development of adequate treating facilities in Guam, any cotton or covers that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a U.S. port of arrival where such treating facilities are available.

(Approved by the Office of Management and Budget under control number 0579-0049)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§319.8-3 Refusal and cancellation of permits.

(a) Permits for entry from the West Coast of Mexico, as authorized in §319.8-12 of lint, linters, waste, cottonseed, and cottonseed hulls may be refused and existing permits cancelled by the Deputy Administrator if he or she has determined that the pink bollworm is present in the West Coast of Mexico or in Northwest Mexico, or that other conditions exist therein that would increase the hazard of pest introduction into the United States.

(b) Permits for entry from Northwest Mexico as authorized in §319.8-13 of lint, linters, waste, cottonseed, cottonseed hulls, and covers that have been used for cotton, may be refused and existing permits cancelled by the Deputy Administrator if he or she has deter-

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mined that the pink bollworm is present in Northwest Mexico or in the West Coast of Mexico, or that other conditions exist therein that would increase the hazard of pest introduction into the United States.

[27 FR 5389, June 7, 1962, as amended at 36 FR 24917, Dec. 24, 1971; 70 FR 33324, June 7, 2005]

§319.8-4 Notice of arrival.

Immediately upon arrival at a port of entry of any shipment of cotton or covers the importer shall submit in duplicate, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, and for the Plant Protection and Quarantine Programs, a notice of such arrival, on a form provided for that purpose (Form PQ-368) and shall give such information as is called for by that form.

(Approved by the Office of Management and Budget under control number 0579-0049)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§319.8-5 Marking of containers.

Every bale or other container of cotton lint, linters, waste, or covers imported or offered for entry shall be plainly marked or tagged with a bale number or other mark to distinguish it from other bales or containers of similar material. Bales of lint, linters, and waste from approved areas of Mexico, the West Coast of Mexico, or Northwest Mexico shall be tagged or otherwise marked to show the gin or mill of origin unless they are immediately exported.

(Approved by the Office of Management and Budget under control number 0579-0049)

[27 FR 5389, June 7, 1962, as amended at 48 FR 57466, Dec. 30, 1983]

§319.8-6 Cottonseed cake and cottonseed meal.

Entry of cottonseed cake and cottonseed meal will be authorized through any port at which the services of an inspector are available, subject to examination by an inspector for freedom from contamination. If found to be free of contamination, importations of such cottonseed cake and cottonseed meal will be released from further plant quarantine entry restrictions. If found

to be contaminated such importations will be refused entry or subjected as a condition of entry to such safeguards as the inspector may prescribe, according to a method selected by the inspector from administratively authorized procedures known to be effective under the conditions under which the safeguards are applied.

[24 FR 10788, Dec. 29, 1959, as amended at 70 FR 33324, June 7, 2005]

§ 319.8-7 Processed lint, linters, and waste.

Entry of lint, linters, and waste will be authorized without treatment but upon compliance with other applicable requirements of this subpart when the inspector can determine that such lint, linters, and waste have been so processed by bleaching, dyeing, or other means, as to have removed all cottonseed or to have destroyed all insect life.

§ 319.8-8 Lint, linters, and waste.

(a) *Compressed to high density.* (1)(i) Entry of lint, linters, and waste, compressed to high density, will be authorized subject to vacuum fumigation by approved methods at any port where approved fumigation facilities are available.

(ii) Importations of such lint, linters, and waste, arriving at a northern port where there are no approved fumigation facilities may be entered for transportation in bond to another northern port where such facilities are available, for the required vacuum fumigation.

(iii) Such lint, linters, and waste compressed to high density arriving at a port in the State of California where there are no approved fumigation facilities may be entered for immediate transportation in bond via an all-water route if available, otherwise by overland transportation in van-type trucks or box cars after approved surface treatment, or under such other conditions as may be deemed necessary and are prescribed by the inspector to (a) any port where approved fumigation facilities are available, there to receive the required vacuum fumigation before release, or (b) to an approved mill or plant for utilization.

(2) Entry of lint, linters, and waste compressed to high density, will be authorized without vacuum fumigation at any northern port, subject to movement to an approved mill or plant, the owner or operator of which has executed an agreement with the Plant Protection and Quarantine Programs to the effect that, in consideration of the waiving, of vacuum fumigation as a condition of entry and the substitution of approved utilization therefor:

(i) The lint, linters, and waste so entered will be processed or manufactured at the mill or plant and until so used will be retained thereat, unless written authority is granted by the Plant Protection and Quarantine Programs to move the material to another mill or plant;

(ii) Sanitary measures satisfactory to the Plant Protection and Quarantine Programs will be taken with respect to the collection and disposal of any waste, residues, and covers, including the collection and disposal of refuse from railroad cars, trucks, or other carriers used in transporting the material to the mill or plant;

(iii) Inspectors of the Plant Protection and Quarantine Programs will have access to the mill or plant at any reasonable time to observe the methods of handling the material, the disposal of refuse, residues, waste, and covers, and otherwise to check compliance with the terms of the agreement;

(iv) Such reports of the receipt and utilization of the material, and disposal of waste therefrom as may be required by the inspector will be submitted to him promptly;

(v) Such other requirements as may be necessary in the opinion of the Deputy Administrator of the Plant Protection and Quarantine Programs to assure retention of the material, including all wastes and residues, at the mill or plant and its processing, utilization or disposal in a manner that will eliminate all pest risk, will be complied with.

(3) Failure to comply with any of the conditions of an agreement specified in paragraph (a)(2) of this section may be cause for immediate cancellation of

the agreement by the inspector and refusal to release, without vacuum fumigation, lint, linters, and waste for transportation to the mill or plant.

(4) Agreements specified in paragraph (a)(2) of this section may be executed only with owners or operators of mills or plants located in States in which cotton is not grown commercially and at locations in such other States as may be administratively designated by the Deputy Administrator of the Plant Protection and Quarantine Programs after due consideration of possible pest risk involved and the proximity of growing cotton.

(b) *Uncompressed or compressed.* (1)(i) Entry of uncompressed or compressed lint, linters, and waste will be authorized, subject to vacuum fumigation by approved methods, through any northern port, through any port in the State of California, and through any port on the Mexican Border, where approved fumigation facilities are available.

(ii) Importations of such lint, linters, and waste arriving at a northern port where there are no approved fumigation facilities may be entered for immediate transportation in bond to another northern port where such facilities are available, for the required vacuum fumigation.

(iii) Compressed lint, linters, and waste arriving at a port in the State of California where there are no approved fumigation facilities may be entered for immediate transportation in bond by an all-water route if available, otherwise by overland transportation in van-type trucks or box cars after approved surface treatment, or under such other conditions as may be deemed necessary and are prescribed by the inspector, to any port in California or any northern port where approved fumigation facilities are available, there to receive the required vacuum fumigation before release, or to any northern port for movement to an approved mill or plant for utilization.

(iv) Uncompressed lint, linters, and waste arriving at a port in the State of California where there are no approved fumigation facilities may be entered for immediate transportation in bond by an all-water route to any port in California or any northern port where approved fumigation facilities are

available, there to receive the required vacuum fumigation before release, or to a northern port for movement to an approved mill or plant for utilization.

(2) Entry without vacuum fumigation will be authorized for compressed lint, linters, and waste, and for uncompressed waste derived from cotton milled in countries that do not produce cotton,⁴ arriving at a northern port, subject to movement to an approved mill or plant.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5389, June 7, 1962; 36 FR 24917, Dec. 24, 1971]

§319.8-9 Hull fiber and gin trash.

(a) Entry of hull fiber will be authorized under the same conditions as are applicable to waste under this subpart.

(b) Gin trash may be imported only under the provisions of §319.8-20.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5390, June 7, 1962]

§319.8-10 Covers.

(a) Entry of covers (including bags, slit bags, and parts of bags) which have been used as containers for cotton grown or processed in countries other than the United States may be authorized either (1) through a Mexican border port named in the permit for vacuum fumigation by an approved method in that part of the United States within the generally infested pink bollworm regulated area; or (2) through a northern port or a port in the State of California subject to vacuum fumigation by an approved method or without vacuum fumigation when the covers are to be moved to an approved mill or plant for utilization. When such covers are forwarded from a northern port to a mill or plant in California for utilization, or from a California port to another California or northern port for vacuum fumigation thereat or for

⁴For the purposes of this subpart the following countries are considered to be those in which cotton is not produced: Austria, Belgium, Canada, Denmark, Republic of Ireland (Eire), Finland, France, Germany (both East and West), Great Britain and Northern Ireland (United Kingdom), Iceland, Liechtenstein, Luxembourg, Netherlands, Norway, Portugal, Sweden, and Switzerland.

movement to a mill or plant for utilization such movement shall be made by an all-water route unless the bales are compressed to a density of 20 pounds or more per cubic foot in which case the bales may be moved overland in van-type trucks or box cars if all-water transportation is not available. Such overland movement may be made only after approved surface treatment or under such other conditions as may be deemed necessary and are prescribed by the inspector. When such covers arrive at a port other than a northern, California, or Mexican border port they will be required to be transported therefrom immediately in bond by an all-water route to a northern or California port where approved vacuum fumigation facilities are available for vacuum fumigation thereat by an approved method or for forwarding therefrom to an approved mill or plant for utilization.

(b) American cotton bagging, commonly known as coarse gunny, which has been used to cover only cotton grown or processed in the United States, may be authorized entry at any port under permit and upon compliance with §§ 319.8-4 and 319.8-5, without fumigation or other treatment. Marking patches of the finer burlaps or other fabrics when attached to bales of such bagging may be disregarded if, in the judgment of the inspector, they do not present a risk of carrying live pink bollworms, golden nematode cysts or flag smut spores.

(c) Bags, slit bags, parts of bags, and other covers which have been used as containers for root crops or are of a kind ordinarily used as containers for root crops may be authorized entry subject to immediate treatment in such manner and according to such method as the inspector may select from administratively authorized procedures known to be effective under the conditions under which the treatment is applied, and subject to any additional safeguard measures that may be prescribed by the inspector pursuant to § 319.8-24, or that he may prescribe in regard to the manner of discharge from the carrier and conveyance to the place of treatment: *Provided*, That such covers may be authorized entry from Canada without treatment as prescribed in

this paragraph unless the covers are found to be contaminated.

(d) Bags, slit bags, parts of bags, and other covers that have been used as containers for wheat or wheat products that have not been so processed as to have destroyed all flag smut disease spores, or that have been used as containers for field seeds separated from wheat during the process of screening, and which arrive from a country named in § 319.59-2(a)(2) of this part, if intended for reuse in this country as grain containers may be authorized entry, subject to immediate treatment at the port of arrival. If such covers are not intended to be reused in this country as grain containers their entry may be authorized subject to movement for utilization to an approved mill or plant the owner or operator of which has executed an appropriate agreement with the Plant Protection and Quarantine Programs similar to that described in § 319.8-8(a)(2). Covers coming within this paragraph only, may be entered without permit other than the authorization provided in this paragraph and without other restriction under this subpart upon presentation to an inspector of satisfactory evidence that they have been used only for grains exported from the United States and are being returned empty without use abroad and that while abroad they have been handled in a manner to prevent their contamination.

(e) When upon arrival at a port of entry any shipment of bags, slit bags, parts of bags, or other covers, is found to include one or more bales containing material the importation of which is regulated by paragraph (a), (c), or (d) of this section, the entire shipment, or any portion thereof, may be required by the inspector to be treated as specified in the applicable paragraph.

(f) If upon their arrival at a port of entry covers are classified by the inspector as coming within more than one paragraph of this section, they will be authorized entry only upon compliance with such requirements of the applicable paragraphs as the inspector may deem necessary to prevent the introduction of plant diseases and insect pests.

(g) Notwithstanding the provisions of any other paragraph of this section the

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entry from any country of bags, slit bags, parts of bags, and other covers will be authorized without treatment but upon compliance with other applicable sections of this subpart if the inspector finds that they have obviously not been used in a manner that would contaminate them or when in the inspector's opinion there is otherwise no plant pest risk associated with their entry.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5390, June 7, 1962; 36 FR 24917, Dec. 24, 1971; 63 FR 31101, June 8, 1998]

SPECIAL CONDITIONS FOR THE ENTRY OF COTTON AND COVERS FROM MEXICO

SOURCE: Sections 319.8-11 through 319.8-14 appear at 27 FR 5309, June 7, 1962, unless otherwise noted.

§319.8-11 From approved areas of Mexico.

(a) Entry of lint, linters, and waste (including gin and oil mill wastes) which were derived from cotton grown in, and which were produced and handled only in approved areas of Mexico⁵ may be authorized through Mexican Border ports in Texas named in the permits

(1) For movement into the generally infested pink bollworm regulated area such products becoming subject immediately upon release by the inspector to the requirements, in §301.52 of this chapter, applicable to like products originating in the pink bollworm regulated area, or

(2) For movement to an approved mill or plant for utilization, or

(3) For movement to New Orleans for immediate vacuum fumigation.

(b) Entry of cottonseed or cottonseed hulls in bulk, or in covers that are new or which have not been used previously to contain cotton or unmanufactured cotton products, may be authorized through Mexican Border ports in Texas named in the permits, for movement into the generally infested pink bollworm regulated area when certified by an inspector as having been pro-

⁵ See §319.8-1(p) for definition of "Approved areas of Mexico." These are within that part of Mexico not included in the "West Coast of Mexico" (§319.8-1(q)) or "Northwest Mexico" (§319.8-1(r)).

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duced in an approved area and handled subsequently in a manner satisfactory to the inspector. Upon arrival in the generally infested pink bollworm regulated area such cottonseed or cottonseed hulls will be released from further plant quarantine entry requirements and shall become subject immediately to the requirements in §301.52 of this chapter.

[27 FR 5309, June 7, 1962, as amended at 63 FR 31101, June 8, 1998]

§319.8-12 From the West Coast of Mexico.

Contingent upon continued freedom of the West Coast of Mexico and of Northwest Mexico from infestations of the pink bollworm, entry of the following products may be authorized under permit subject to inspection to determine freedom from hazardous plant pest conditions:

(a) Compressed lint and linters.

(b) Uncompressed lint and linters for movement into the generally infested pink bollworm regulated area, movement thereafter to be in accordance with §301.52 of this chapter.

(c) Compressed or uncompressed cotton waste for movement under bond to Fabens, Texas, for vacuum fumigation after which it will be released from further plant quarantine entry requirements.

(d) Cottonseed when certified by an inspector as having been treated, stored, and transported in a manner satisfactory to the Deputy Administrator.

(e) Untreated, non-certified cottonseed contained in new bags for movement by special manifest to any destination in the generally infested pink bollworm regulated area, movement thereafter to be in accordance with §301.52 of this chapter.

(f) Cottonseed hulls when certified by an inspector as having been treated, stored, and transported in a manner satisfactory to the Deputy Administrator.

(g) Any cotton products for movement through Mexican border ports in Texas directly into the generally infested pink bollworm regulated area,

movement thereafter to be in accordance with § 301.52 of this chapter.

[27 FR 5309, June 7, 1962, as amended at 36 FR 24917, Dec. 24, 1971]

§ 319.8-13 From Northwest Mexico.

Contingent upon continued freedom of Northwest Mexico and of the West Coast of Mexico from infestations of the pink bollworm and other plant pest conditions that would increase risk of pest introduction into the United States with importations authorized under this section, entry of the following products may be authorized under permit subject to inspection upon arrival to determine freedom from hazardous plant pest conditions:

- (a) Lint, linters, and waste.
- (b) Cottonseed.
- (c) Cottonseed hulls.
- (d) Covers that have been used for cotton only.

§ 319.8-14 Mexican cotton and covers not otherwise enterable.

Mexican cotton and covers not enterable under § 319.8-11, § 319.8-12, or § 319.8-13 may be entered in accordance with §§ 319.8-6 through 319.8-10 and §§ 319.8-16 through 319.8-20 insofar as said sections are applicable.

MISCELLANEOUS PROVISIONS

§ 319.8-16 Importation into United States of cotton and covers exported therefrom.

(a) Cotton and covers grown, produced, or handled in the United States and exported therefrom, and in the original bales or other containers in which such material was exported therefrom, may be imported into the United States at any port under permit, without vacuum fumigation or other treatment or restriction as to utilization, upon compliance with §§ 319.8-2, 319.8-4, and § 319.8-5, and upon the submission of evidence satisfactory to the inspector that such material was grown, produced, or handled in the United States and does not constitute a risk of introducing the pink bollworm into the United States.

(b) Cotton and covers of foreign origin imported into the United States in accordance with this subpart and exported therefrom, when in the original

bales or other original containers, may be reimported into the United States under the conditions specified in paragraph (a) of this section.

§ 319.8-17 Importation for exportation, and importation for transportation and exportation; storage.

(a) Importation of cotton and covers for exportation, or for transportation and exportation, in accordance with this subpart shall also be subject to §§ 352.1 through 352.8 of this chapter, as amended.

(b) Importation at northern ports of unfumigated lint, linters, waste, cottonseed cake, cottonseed meal and covers used only for cotton, for exportation or for transportation and exportation through another northern port, may be authorized by the inspector under permit if, in his judgment, such procedures can be authorized without risk of introducing the pink bollworm.

(c) Entry under permit of lint, linters, or waste compressed to high density will be authorized for purposes of storage in the north pending exportation, fumigation, or utilization in an approved mill or plant provided the owner or operator of such proposed storage place has executed an agreement with the Plant Protection and Quarantine Programs similar to those required for mills or plants to utilize lint, linters, and waste as specified in § 319.8-8(a)(2), and provided further that

- (1) Inspectors are available to supervise the storage,
- (2) The bales of material to be stored are free from surface contamination,
- (3) The material is kept segregated from other cotton and covers in a manner satisfactory to the inspector, and
- (4) The waste is collected and disposed of in a manner satisfactory to the inspector.

(d) Except as provided in § 319.8-23(a)(4), compressed lint, linters, and waste, uncompressed waste derived from cotton milled in a non-cotton-producing country,⁶ and covers, arriving at a port in the north for entry for

⁶For the purposes of this subpart the following countries are considered as non-cotton-producing countries: Austria, Belgium, Canada, Denmark, Eire, Finland, France, Germany, Great Britain (United Kingdom),

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exportation, vacuum fumigation, or utilization in accordance with the requirements in this subpart, may be allowed movement in Customs custody for storage at a point in the north pending such exportation, or movement to an approved mill or plant for vacuum fumigation or utilization, when there are inspectors available to supervise such storage, if the bales are free of surface contamination, if they are kept segregated from other cotton and covers in a manner satisfactory to the inspector, and if waste is collected and disposed of in a manner satisfactory to the inspector. Such lint, linters, waste, and covers shall remain under Customs custody until released by the inspector.

(e) Importation of lint, linters, and waste from Mexico for transportation and exportation will be authorized under permit if such material is compressed before, or immediately upon entering into the United States, or is compressed while en route to the port of export at a compress specifically authorized in the permit. The ports of export which may be named in the permit shall be limited to those that have been administratively approved for such exportation. Storage of such compressed cotton may be authorized, in approved bonded warehouses in Texas.

(f) Entry of uncompressed lint, linters, and waste from Mexico may be authorized at ports named in the permit for exportation at ports within the generally infested pink bollworm regulated area or for transportation and exportation via rail to Canada under such conditions and over such routes as may be specified in the permit.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5390, June 7, 1962; 36 FR 24917, Dec. 24, 1971; 63 FR 31101, June 8, 1998]

§319.8-18 Samples.

(a) Samples of lint, linters, waste, cottonseed cake, and cottonseed meal may be entered without further permit other than the authorization contained in this section, but subject to inspection and such treatment as the inspector may deem necessary. Samples

which represent either such products of United States origin or such products imported into the United States in accordance with the requirements of this subpart, and which were exported from the United States, may be entered into the United States without inspection when the inspector is satisfied as to the identity of the samples.

(b) Samples of cottonseed or seed cotton may be entered subject to the conditions and requirements provided in §§319.8-2, 319.8-4, and 319.8-19.

(c) Bales or other containers of cotton shall not be broken or opened for sampling and samples shall not be drawn until the inspector has so authorized and has prescribed the conditions and safeguards under which such samples shall be obtained.

§319.8-19 Cottonseed or seed cotton for experimental or scientific purposes.

Entry of small quantities of cottonseed or seed cotton for experimental or scientific purposes may be authorized through such ports as may be named in the permit, and shall be subject to such special conditions as shall be set forth in the permit to provide adequate safeguards against pest entry.

§319.8-20 Importations by the Department of Agriculture.

Cotton and covers may be imported by the Department of Agriculture for experimental or scientific purposes under such conditions as may be prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs, which conditions may include clearance through the New Crops Research Branch of the Plant Science Research Division, Agricultural Research Services.

§319.8-21 Release of cotton and covers after 18 months' storage.

Cotton and covers, the entry of which has been authorized subject to vacuum fumigation or other treatment because of the pink bollworm only, and which have not received such treatment but have been stored for a period of 18 months or more will be released from further plant quarantine entry restrictions.

Iceland, Liechtenstein, Luxembourg, Netherlands, Norway, Portugal, Sweden and Switzerland.

§ 319.8-22 Ports of entry or export.

When ports of entry or export are not specifically designated in this subpart but are left to the judgment of the inspector, the inspector shall designate only such ports as have been administratively approved for such entry or export.

§ 319.8-23 Treatment.

(a)(1) Vacuum fumigation as required in this subpart shall consist of fumigation, in a vacuum fumigation plant approved by the Deputy Administrator of the Plant Protection and Quarantine Programs, under the supervision of an inspector and to his satisfaction. Continued approval of the plant will be contingent upon the granting by the operator thereof, to the inspector, of access to all parts of the plant at all reasonable hours for the purpose of supervising sanitary and other operating conditions, checking the efficacy of the apparatus and chemical operations, and determining that wastage has been cleaned up and disposed of in a manner satisfactory to the inspector; and upon the maintenance at the plant of conditions satisfactory to the inspector.

(2) After cotton and covers have been vacuum fumigated they shall be so marked under the supervision of an inspector. Such material may thereafter be distributed, forwarded, or shipped without further plant quarantine entry restriction.

(3) Cotton and covers held by an importer for vacuum fumigation must be stored under conditions satisfactory to the inspector.

(4) Prompt vacuum fumigation of cotton and covers (other than high density cotton free of surface contamination) will be required at non-northern ports. Similar prompt vacuum fumigation will be required at Norfolk, Virginia, during the period June 15 to October 15 of each year, except for covers which have been used to contain only lint, linters, or waste, and the bales of which are compressed to a density of 28 or more pounds per cubic foot and are free of surface contamination.

(b) An inspector may authorize the substitution of processing, utilization, or other form of treatment for vacuum fumigation when in his opinion such other treatment, selected by him from

administratively authorized procedures, will be effective in eliminating infestation of the pink bollworm.

§ 319.8-24 Collection and disposal of waste.

(a) Importers shall handle imported, unfumigated cotton and covers in a manner to avoid waste. If waste does occur, the importer or his or her agent shall collect and dispose of such waste in a manner satisfactory to the inspector.

(b) If, in the judgment of an inspector, it is necessary as a safeguard against risk of pest dispersal to clean railway cars, lighters, trucks, and other vehicles and vessels used for transporting such cotton or covers, or to clean piers, warehouses, fumigation plants, mills, or other premises used in connection with importation of such cotton or covers, the importer or his or her agent shall perform such cleaning, in a manner satisfactory to the inspector.

(c) All costs incident to such collection, disposal, and cleaning other than the services of the inspector during his regular tour of duty and at the usual place of duty, shall be borne by the importer or his or her agent.

[24 FR 10788, Dec. 29, 1959, as amended at 70 FR 33324, June 7, 2005]

§ 319.8-25 Costs and charges.

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer. The Plant Protection and Quarantine Programs will not assume responsibility for any costs or charges, other than those indicated in this section, in connection with the entry, inspection, treatment, conditioning, storage, forwarding, or any other operation of any character incidental to the physical entry of an importation of a restricted material.

§ 319.8-26 Material refused entry.

Any material refused entry for non-compliance with the requirements of this subpart shall be promptly removed from the United States or abandoned by the importer for destruction, and pending such action shall be subject to

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the immediate application of such safeguards against escape of plant pests as the inspector may prescribe. If such material is not promptly safeguarded by the importer, removed from the United States, or abandoned for destruction to the satisfaction of the inspector it may be seized, destroyed, or otherwise disposed of in accordance with sections 414 and 421 of the Plant Protection Act (7 U.S.C. 7714 and 7731). Neither the Department of Agriculture nor the inspector will be responsible for any costs accruing for demurrage, shipping charges, cartage, labor, chemicals, or other expenses incidental to the safeguarding or disposal of material refused entry by the inspector, nor will the Department of Agriculture or the inspector assume responsibility for the value of material destroyed.

[24 FR 10788, Dec. 29, 1959, as amended at 66 FR 21055, Apr. 27, 2001]

Subpart—Sugarcane

§ 319.15 Notice of quarantine.

(a) The importation into the United States of sugarcane and its related products, including cuttings, canes, leaves, and bagasse, from all foreign countries and localities is prohibited, except for importations by the U.S. Department of Agriculture for scientific or experimental purposes and importations authorized under a permit issued by the Department specifying conditions under which the materials have been or are to be subjected to mitigate any pest risk.

(b) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

[24 FR 10788, Dec. 29, 1959, as amended at 66 FR 21055, Apr. 27, 2001]

§ 319.15a Administrative instructions and interpretation relating to entry into Guam of bagasse and related sugarcane products.

Bagasse and related sugarcane products have been so processed that, in the judgment of the Department, their importation into Guam will involve no pest risk, and they may be imported

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into Guam without further permit, other than the authorization contained in this paragraph. Such importations may be made without the submission of a notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by the importer at the time of importation. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

Subpart—Citrus Canker and Other Citrus Diseases

§ 319.19 Notice of quarantine.

(a) In order to prevent the introduction into the United States of the citrus canker disease (*Xanthomonas citri* (Hassé) Dowson) and other citrus diseases, the importation into the United States of plants or any plant part, except fruit and seeds, of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioidae of the botanical family Rutaceae is prohibited, except as provided in paragraphs (b), (c), and (d) of this section.

(b) Plants or plant parts of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioidae of the botanical family Rutaceae may be imported into the United States for experimental or scientific purposes in accordance with conditions prescribed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture.

(c) Plants or plant parts of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioidae of the botanical family Rutaceae may be imported into Guam in accordance with § 319.37–6.

(d) Plants or plant parts of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioidae of the botanical family Rutaceae that are regulated articles under §§ 319.40–1 through 319.40–11 may be imported into the United States in

accordance with §§319.40-1 through 319.40-11 and without restriction by this subpart.

(e) As used in this section unless the context otherwise requires, the term "United States" means the continental United States, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

[24 FR 10788, Dec. 29, 1959, as amended at 60 FR 27674, May 25, 1995]

Subpart—Corn Diseases

QUARANTINE

§319.24 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given, that maize or Indian corn (*Zea mays* L.) and closely related plants are subject to certain injurious diseases, especially *Peronospora maydis* Raciborski, *Sclerospora sacchari* Miyake and other downy mildews; also the *Physoderma* diseases of maize, *Physoderma zea-maydis* Shaw, and *Physoderma maydis* Miyake, new to and not heretofore widely prevalent or distributed within and throughout the United States, and that these diseases occur in southeastern Asia (including India, Siam, Indo-China and China), Malayan Archipelago, Australia, Oceania, Philippine Islands, Formosa, Japan, and adjacent islands.

(b) Except as otherwise provided in this subpart, the importation into the United States of raw or unmanufactured corn seed and all other portions of Indian corn or maize and related plants, including all species of teosinte (*Euchlaena*), jobs-tears (*Coix*), *Polytoxa*, *Chionachne*, and *Sclerachne*, from southeastern Asia (including India, Indo-China, and the People's Republic of China), Malayan Archipelago, Australia, New Zealand, Oceania, Philippine Islands, Manchuria, Japan, and adjacent islands is prohibited. However, this prohibition does not apply to importations of such items by the U.S. Department of Agriculture for scientific or experimental purposes. And further, when the public interests will permit, the Deputy Administrator of the Plant Protection and Quarantine Programs may, upon request in specific cases, authorize such importations into

Guam under conditions specified in the permit that are less stringent than those contained in this subpart.

(c) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

(d) Seed of Indian corn or maize (*Zea mays* L.) that is free from the cob and from all other parts of corn may be imported into the United States from New Zealand without further restriction.

[24 FR 10788, Dec. 29, 1959, as amended at 58 FR 44745, Aug. 25, 1993; 66 FR 21055, Apr. 27, 2001]

§319.24a Administrative instructions relating to entry of corn into Guam.

Corn may be imported into Guam without further permit, other than the authorization contained in this section but subject to compliance with §319.24-3. Such imports need not comply with the notice of arrival requirements of §319.24-4 inasmuch as information equivalent to that in a notice of arrival is available to the inspector from another source. Section 319.24-5 shall not be applicable to importations of corn into Guam. Such importations shall be subject to inspection at the port of entry. Corn found upon inspection to contain disease infection will be subject to sterilization in accordance with methods selected by the inspector from administratively authorized procedures known to be effective under the conditions in which applied.

REGULATIONS GOVERNING ENTRY OF INDIAN CORN OR MAIZE

§319.24-1 Applications for permits for importation of corn.

Persons contemplating the importation of corn into the United States shall, before shipping the corn, make application for a permit, on forms provided for that purpose, to the Deputy Administrator of the Plant Protection and Quarantine Programs, Department of Agriculture, Washington, DC, stating the name and address of the exporter, the country and locality where grown, the port of departure, the proposed port of entry, and the name and

§ 319.24-2

address of the importer or of the broker in the United States to whom the permit should be sent.

(Approved by the Office of Management and Budget under control number 0579-0049)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.24-2 Issuance of permits.

(a) Upon receipt of an application and upon approval by an inspector a permit will be issued specifying the conditions of entry and the port of entry to carry out the purposes of this subpart, and a copy will be supplied to the importer.

(b) Further permits may be refused and existing permits revoked, if the application therefor does not correctly give the locality where the corn was grown, or is false or deceptive in any material particular.

§ 319.24-3 Marking as condition of entry.

Every bag or other container of corn offered for entry shall be plainly marked with such numbers or marks as will make it easily possible to associate the bags or containers with a particular importation.

(Approved by the Office of Management and Budget under control number 0579-0049)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.24-4 Notice of arrival of corn by permittee.

Immediately upon the arrival of the corn at the port of entry the permittee shall submit, in duplicate, notice to the Plant Protection and Quarantine Programs, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit, the number of bags or other containers of corn included in the shipment, the bag or other container numbers or marks, the country and locality where the corn was grown, the name and address of the exporter or foreign shipper, the port of departure, the date of arrival, the name of the ship or vessel, and the des-

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ignation of the dock where the corn is to be landed.

(Approved by the Office of Management and Budget under control number 0579-0049)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.24-5 Condition of entry.

The corn shall not be removed from the port of entry, nor shall any bag or other container thereof be broken or opened, except for the purpose of sterilization, until a written notice is given to the United States Collector of Customs, or, in the case of Guam, the Customs officer of the Government of Guam, by an inspector of the Plant Protection and Quarantine Programs, that the corn has been properly sterilized and released for entry without further restrictions so far as the jurisdiction of the Department of Agriculture extends thereto. All apparatus and methods for accomplishing such sterilization must be satisfactory to the Plant Protection and Quarantine Programs. Corn will be delivered to the permittee for sterilization, upon the filing with the appropriate customs official of a bond in the amount of \$5,000, or in an amount equal to the invoice value of the corn if such value is less than \$5,000, with approved sureties, and conditioned upon sterilization of the corn under the supervision and the satisfaction of an inspector of the Plant Protection and Quarantine Programs; and upon the redelivery of the corn to said customs official within 40 days from the arrival of the corn at the port of entry.

Subpart—Citrus Fruit

NOTE: Citrus nursery stock, except seeds, is prohibited entry from all foreign countries and localities by the citrus nursery stock quarantine No. 19 (§319.19).

The importation from all foreign countries of fruits of citrus and citrus relatives, other than those specified in this subpart, is restricted by the provisions of fruit and vegetable quarantine No. 56 (§§319.56 to 319.56-8).

§ 319.28 Notice of quarantine.

(a)(1) To prevent the introduction into the United States of citrus canker disease *Xanthomonas campestris* pv. *citri* (Hasse) Dye, the importation of all

fruits and peel of all genera, species, and varieties of the subfamilies *Aurantioideae*, *Rutoideae*, and *Toddalioideae* of the botanical family *Rutaceae* from eastern and south-eastern Asia (including India, Myanmar, Sri Lanka, Thailand, Indochina, and the People's Republic of China); the Malay Archipelago; the Philippine Islands; Oceania (except Australia and Tasmania); Japan and adjacent islands; the Republic of Korea; Mauritius; Seychelles; Argentina (except for the States of Catamarca, Jujuy, Salta, and Tucuman, which are considered free of citrus canker); Brazil; and Paraguay is prohibited.

(2) To prevent the introduction into the United States of sweet orange scab (*Elsinoe australis* Bitanc. and Jenkins), the importation of fruits and peel of all species and varieties of the genus *Citrus*, including *Citrus aurantifolia* (Christm.) Swingle, *C. aurantium* L., *C. hystrix* DC., *C. limon* (L.) Burm. f., *C. paradisi* Macf., *C. reticulata* Blanco, *C. sinensis* (L.) Osbeck, and *Fortunella margarita* (Lour.) Swingle, from Argentina (except as provided by § 319.56-2f of this part), Brazil, Paraguay, and Uruguay is prohibited.

(3) To prevent the introduction into the United States of the bacterial disease "Cancrosis B," the importation of fruits and peel of all species and varieties of the genus *Citrus*, including those indicated in the previous paragraph, is prohibited from Argentina (except for the States of Catamarca, Jujuy, Salta, and Tucuman, which are considered free of Cancrosis B), Paraguay, and Uruguay.

(4) Seeds and processed peel of fruits designated in this section are excluded from this prohibition. Such seeds, however, are subject to the requirements of §§ 319.37 through 319.37-27.

(b) The prohibition does not apply to Unshu oranges (*Citrus reticulata* Blanco var. *unshu*, Swingle [*Citrus unshiu* Marcovitch, Tanaka]), also known as Satsuma mandarin, grown in Japan or on Cheju Island, Republic of Korea, and imported under permit into any area of the United States except for those areas specified in paragraph (b)(7) of this section: *Provided*, that each of the

following safeguards is fully carried out:

(1) The Unshu oranges must be grown and packed in isolated, canker-free export areas established by the plant protection service of the country of origin. Only Unshu orange trees may be grown in these areas, which must be kept free of all citrus other than the propagative material of Unshu oranges. The export areas must be inspected and found free of citrus canker and prohibited plant material by qualified plant protection officers of both the country of origin and the United States. The export areas must be surrounded by 400-meter-wide buffer zones. The buffer zones must be kept free of all citrus other than the following 10 varieties: Buntan Hirado (*Citrus grandis*); Buntan Vietnam (*C. grandis*); Hassaku (*C. hassaku*); Hyuganatsu (*C. tamurana*); Kinkan (*Fortunella* spp. non *Fortunella hindsii*); Kiyomi tangor (hybrid); Orange Hyuga (*C. tamurana*); Ponkan (*C. reticulata*); Unshu (*C. unshiu* Marcovitch, Tanaka [*Citrus reticulata* Blanco var. *unshu*, Swingle]); and Yuzu (*C. junos*). The buffer zones must be inspected and found free of citrus canker and prohibited plant material by qualified plant protection officers of both the country of origin and the United States.

(2) In Unshu orange export areas and buffer zones on Kyushu Island, Japan, trapping for the citrus fruit fly (*Bactrocera tsuneonis*) must be conducted as prescribed by the Japanese Government's Ministry of Agriculture, Forestry and Fisheries and the U.S. Department of Agriculture. If fruit flies are detected, then shipping will be suspended from the export area until negative trapping shows the problem has been resolved.

(3) Inspection of the Unshu oranges shall be performed jointly by plant protection officers of the country of origin and the United States in the groves prior to and during harvest, and in the packinghouses during packing operations.

(4) Before packing, such oranges shall be given a surface sterilization as prescribed by the U.S. Department of Agriculture.

(5) To be eligible for importation into Arizona, California, Florida, Hawaii, Louisiana, or Texas, each shipment of

oranges grown on Honshu Island or Shikoku Island, Japan, must be fumigated with methyl bromide after harvest and prior to exportation to the United States. Fumigation must be at the rate of 3 lbs./1,000 cu. ft. for 2 hours at 59 °F or above at normal atmospheric pressure (chamber only) with a load factor of 32 percent or below. Fumigation will not be required for shipments of oranges grown on Honshu Island or Shikoku Island, Japan, that are to be imported into States other than Arizona, California, Florida, Hawaii, Louisiana, or Texas.

(6) The identity of the fruit shall be maintained in the following manner:

(i) The individual boxes in which the oranges are shipped must be stamped or printed with a statement specifying the States into which the Unshu oranges may be imported, and from which they are prohibited removal under a Federal plant quarantine.

(ii) Each shipment of oranges handled in accordance with these procedures shall be accompanied by a certificate of the plant protection service of the country of origin certifying that the fruit is apparently free of citrus canker disease.

(7) The Unshu oranges may be imported into the United States only through a port of entry listed in § 319.37–14 that is located in an area of the United States into which their importation is authorized. The following importation restrictions apply:

(i) Unshu oranges from Honshu Island or Shikoku Island, Japan, that have been fumigated in accordance with paragraph (b)(5) of this section may be imported into any area of the United States except American Samoa, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

(ii) Unshu oranges from Honshu Island or Shikoku Island, Japan, that have not been fumigated in accordance with paragraph (b)(5) of this section; Unshu oranges from Kyushu Island, Japan (Prefectures of Fukuoka, Kumamoto, Nagasaki, and Saga only); and Unshu oranges from Cheju Island, Republic of Korea, may be imported into any area of the United States except American Samoa, Arizona, California, Florida, Hawaii, Louisiana, the Northern Mariana Islands, Puerto

Rico, Texas, and the U.S. Virgin Islands.

(c) This prohibition shall not apply to importations for experimental or scientific purposes by the U.S. Department of Agriculture upon such conditions and under such requirements as may be prescribed in permits that may be issued by the Deputy Administrator of the Plant Protection and Quarantine Programs for such importations.

(d) Further, this prohibition shall not apply to importations into Guam of the fruits and peel designated in paragraph (a)(1) of this section.

(e) Importations allowed in paragraphs (b), (c), and (d) of this section shall be subject to the permit and other requirements under the Fruits and Vegetables Quarantine (§ 319.56).

(f) All salary, travel, and subsistence expenses incident to the assignment of personnel of the U.S. Department of Agriculture to such operations in the country of origin of the Unshu oranges shall be paid by those requesting the service of such personnel.

(g) The term *United States* means the States, District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

(h) Any permit that has been issued for the importation of Unshu oranges may be withdrawn by an inspector orally or in writing, if he or she determines that the holder of the permit has not complied with any of the conditions in the regulations. The holder of the permit shall be informed orally or in writing of the reasons for the withdrawal. If the withdrawal is oral, the decision and the reasons for the withdrawal will be confirmed in writing as promptly as circumstances allow. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. As promptly as circumstances allow, the Deputy Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material

fact. Rules of practice concerning a hearing will be adopted by the Deputy Administrator.

(i) The term *inspector* means any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, who is authorized by the Deputy Administrator to enforce the regulations in this subpart.

[32 FR 7959, June 2, 1967, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 7481, Apr. 15, 1972; 37 FR 23624, Nov. 7, 1972; 43 FR 13491, Mar. 31, 1978; 52 FR 32291, Aug. 27, 1987; 53 FR 50508, Dec. 16, 1988; 59 FR 13183, Mar. 21, 1994; 60 FR 39103, 39104, Aug. 1, 1995; 65 FR 37667, June 15, 2000; 66 FR 21055, Apr. 27, 2001; 67 FR 4876, Feb. 1, 2002; 68 FR 9853, Mar. 3, 2003; 69 FR 9744, Mar. 2, 2004]

Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products^{1,2}

SOURCE: 45 FR 31585, May 13, 1980; 60 FR 27674, May 25, 1995, unless otherwise noted.

§ 319.37 Prohibitions and restrictions on importation; disposal of articles refused importation.

(a) No person shall import or offer for entry into the United States any prohibited article, except as otherwise provided in § 319.37-2(c) of this subpart. No person shall import or offer for entry into the United States any restricted article except in accordance with this subpart.

(b) The importer of any article denied entry for noncompliance with this subpart must, at the importer's expense and within the time specified in an

emergency action notification (PPQ Form 523), destroy, ship to a point outside the United States, or apply treatments or other safeguards to the article, as prescribed by an inspector to prevent the introduction into the United States of plant pests. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the plant pest associated with the article, whether the article is a host of the pest, the types of other host materials for the pest in or near the port, the climate and season at the port in relation to the pest's survival range, and the availability of treatment facilities for the article.

(c) No person shall remove any restricted article from the port of first arrival unless and until a written notice is given to the collector of customs by the inspector that the restricted article has satisfied all requirements under this subpart.

[57 FR 43144, Sept. 18, 1992]

§ 319.37-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

Bulbs. The portion of a plant commonly known as a bulb, bulbil, bulblet, corm, cormel, rhizome, tuber, or pip, and including fleshy roots or other underground fleshy growths, a unit of which produces an individual plant.

Clean well water. Well water that does not contain plant pathogens or other plant pests.

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture for the Plant Protection and Quarantine Programs, or any other officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

Disease. The term in addition to its common meaning, includes a disease agent which incites a disease.

¹The Plant Protection and Quarantine Programs also enforces regulations promulgated under the Endangered Species Act of 1973 (Pub. L. 93-205, as amended) which contain additional prohibitions and restrictions on importation into the United States of articles subject to this subpart (See 50 CFR parts 17 and 23).

²One or more common names of articles are given in parentheses after most scientific names (when common names are known) for the purpose of helping to identify the articles represented by such scientific names; however, unless otherwise specified, a reference to a scientific name includes all articles within the category represented by the scientific name regardless of whether the common name or names are as comprehensive in scope as the scientific name.

Earth. The softer matter composing part of the surface of the globe, in distinction from the firm rock, and including the soil and subsoil, as well as finely divided rock and other soil formation materials down to the rock layer.

Europe. The continent of Europe, the British Isles, Iceland, the Azores, and the islands in the Mediterranean Sea.

From. An article is considered to be "from" any country or locality in which it was grown. *Provided,* That an article imported into Canada from another country or locality shall be considered as being solely from Canada if it meets the following conditions:

(a) It is imported into the United States directly from Canada after having been grown for at least 1 year in Canada,

(b) It has never been grown in a country from which it would be a prohibited article or grown in a country other than Canada from which it would be subject to conditions of § 319.37-5 (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), or (m) of this subpart, or subject to conditions of § 319.37-6 of this subpart,

(c) It was not grown in a country or locality from which it would be subject to conditions of § 319.37-7 of this subpart unless it was grown in Canada under postentry growing conditions equivalent to those specified in § 319.37-7³ of this subpart, and

(d) It was not imported into Canada in growing media.

Indexing. A procedure for using plant material or its extracts to determine the presence or absence of one or more pests in or on the tested plant material. For the purposes of this subpart, indexing is performed in foreign countries to test the parent stock of designated articles that must meet special foreign inspection and certification requirements in accordance with § 319.37-5 to be eligible for importation into the United States. The results of indexing tests are used by the plant protection

services of foreign countries to issue phytosanitary certificates declaring plant articles free of specified diseases. The following indexing procedures are authorized for use with the specified plant genera, if the procedures are performed using protocols acceptable to the plant protection service that issues phytosanitary certificates based on them: mechanical transmission of the pest to an indicator plant for *Dianthus*, *Malus*, *Prunus*, *Rubus*, and *Syringa*; graft transmission of the pest to an indicator plant for *Chaenomeles*, *Cydonia*, *Malus*, *Prunus*, *Pyrus*, *Rubus*, and *Syringa*; serology for *Dianthus*, *Malus*, *Prunus*, *Pyrus*, *Rubus*, and *Syringa*; electron microscopy for *Dianthus* and *Prunus*, and nucleic acid probes for *Chaenomeles*, *Cydonia*, *Malus*, and *Pyrus*.

Inspector. Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the regulations in this subpart.

Nursery stock. All field-grown florist's stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots.

Oceania. The islands of Micronesia, Melanesia, and Polynesia (except Hawaii, Guam, and the Northern Mariana Islands) in the central and southern Pacific Ocean.

Person. An individual, corporation, company, society, or association.

Phytosanitary certificate of inspection. A document relating to a restricted article, which is issued by a plant protection official of the country in which the restricted article was grown, which is issued not more than 15 days prior to shipment of the restricted article from the country in which grown, which is addressed to the plant protection service of the United States (Plant Protection and Quarantine Programs), which contains a description of the restricted article intended to be imported into the United States, which certifies that

³Currently only *Chaenomeles* spp. (flowering quince), *Cydonia* spp. (quince), *Malus* spp. (apple, crabapple); *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) and *Pyrus* spp. (pear) are required under the laws of Canada to be grown in Canada under such equivalent conditions after importation.

the article has been thoroughly inspected, is believed to be free from injurious plant diseases, injurious insect pests, and other plant pests, and is otherwise believed to be eligible for importation pursuant to the current phytosanitary laws and regulations of the United States, and which contains any specific additional declarations required under this subpart.

Plant pest. The egg, pupal, and larval stages as well as any other living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

Plant Protection and Quarantine Programs. The organizational unit with the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act and related legislation, quarantines, and regulations.

Port of first arrival. The land area (such as a seaport, airport, or land border station) where a person, or a land, water, or air vehicle, first arrives after entering the territory of the United States, and where inspection of articles is carried out by inspectors.

Potable water. Water which is approved for drinking purposes by the national or local health authority having jurisdiction.

Production site. A defined portion of a place of production utilized for the production of a commodity that is managed separately for phytosanitary purposes. This may include the entire place of production or portions of it. Examples of portions of places of production are a defined orchard, grove, field, greenhouse, screenhouse, or premises.

Prohibited article. Any nursery stock, plant, root, bulb, seed, or other plant product designated in §319.37-2 (a) or (b), except wood articles regulated under §§319.40-1 through 319.40-11,

“Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles.”

Restricted article. Any class of nursery stock or other class of plant, root, bulb, seed, or other plant product, for or capable of propagation, excluding any prohibited articles listed in §319.37-2(a) or (b) of this subpart, and excluding any articles regulated in 7 CFR 319.8 through 319.24-5 or 319.41 through 319.74-4.

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his/her stead has been or may hereafter be delegated.

Soil. The loose surface material of the earth in which plants, trees, and shrubs grow, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts.

***Solanum* spp. true seed.** Seed produced by flowers of *Solanum* capable of germinating and producing new *Solanum* plants, as distinguished from *Solanum* tubers, whole or cut, that are referred to as *Solanum* seeds or seed potatoes.

Spp. (species). All species, clones, cultivars, strains, varieties, and hybrids, of a genus.

State Plant Regulatory Official. The official authorized by the State to sign agreements with Federal agencies involving operations of the State plant protection agency.

United States. The States, District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

[45 FR 31585, May 13, 1980, as amended at 50 FR 8706, Mar. 5, 1985; 56 FR 19790, Apr. 30, 1991; 57 FR 43145, Sept. 18, 1992; 58 FR 38267, July 16, 1993; 60 FR 3077, Jan. 13, 1995; 60 FR 27674, May 25, 1995; 63 FR 13484, Mar. 20, 1998; 66 FR 21055, Apr. 27, 2001; 69 FR 21946, Apr. 23, 2004; 69 FR 61586, Oct. 20, 2004]

§319.37-2 Prohibited articles.

(a) The following listed articles from the designated countries and localities are prohibited articles and are prohibited from being imported or offered for entry into the United States except as provided in paragraph (c) of this section.

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
<i>Abelmoschus</i> spp. (okra)	Africa	Cotton leaf curl agent.
	Brazil	Cotton Anthocyanosis agent.
	Bangladesh, India, Sri Lanka	Bhendi yellow vein mosaic agent.
	Cote d'Ivoire, Nigeria	Okra mosaic virus.
	Iraq	Okra yellow leaf curl agent.
	Papua New Guinea, Trinidad and Tobago	Okra mosaic agents.
<i>Abies</i> spp. (fir)	All except Canada	50 or more species of rusts including <i>Chrysomyxa abietis</i> (Wallr.) Ung. (a rust causing a serious needle disease); <i>Phacidiopycnis pseudotsuga</i> (M. Wils.) Hahn (Douglas fir canker).
<i>Acacia</i> spp. (acacia)	Australia and Oceania	<i>Uromycladium tepperianum</i> (Sacc.) McAlp. (Rust).
<i>Acer</i> spp. (maple) (except <i>Acer palmatum</i> and <i>Acer japonicum</i> meeting the conditions for importation in § 319.37–5(m)).	Japan	<i>Xanthomonas acernea</i> (Ogawa) Burk.
	Europe, Japan	Maple mosaic or variegation diseases.
<i>Actinidia</i> spp. (Chinese gooseberry, kiwi)..	Japan and Taiwan	<i>Pucciniastrum actinidiae</i> Hiratusuka (Rust).
<i>Adonia</i> spp	All	A diversity of diseases including, but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Aesculus</i> spp. (horsechestnut)	Czech Republic, Germany, Romania, Slovakia, United Kingdom.	Horsechestnut variegation or yellow mosaic diseases.
<i>Aiphanes</i> spp. (coyure, ruffle, and spine palm).	All	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.
<i>Allagoptera arenaria</i>	All	A diversity of diseases including, but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Althaea</i> spp. (althaea, hollyhock)	Africa	Cotton leaf curl agent.
	Bangladesh, India, Sri Lanka	Bhendi yellow vein mosaic agent.
<i>Arachis</i> spp. (peanut) seed only (all other <i>Arachis</i> articles are included under Fabaceae).	India, Indonesia, Japan, People's Republic of China, Philippines, Taiwan, Thailand.	Peanut stripe virus.
	Burkina Faso, Cote d'Ivoire, Senegal India	Peanut clump virus. Indian peanut clump virus.
<i>Areca</i> spp	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Arenga</i> spp. (sugarpalm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Arikuryroba</i> spp. (arikury palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Articles listed in § 319.37–2(b)	All except Canada	A diversity of diseases, insects, and other pests, including but not limited to: <i>Cactoblastis cactorum</i> (Berg); <i>Metamasius</i> spp.; <i>Opogona sacchari</i> (Bojer); <i>Chrysomyxa himalensis</i> Barclay (Spruce needle rust); <i>Aecidium mori</i> Barclay (Mulberry rust); <i>Pseudomonas lignicola</i> Westherd. & Buis. (Bacterial stain); <i>Pucciniastrum areolatum</i> (Fr.) Otth. (Cherry-spruce rust).
Bambuseae (seeds, plants, and cuttings).	All	Various plant diseases, Including bamboo smut (<i>Ustilago shiraiana</i>)

<i>Berberis</i> spp. (barberry) (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter).	All	<i>Puccinia graminis</i> Pers. (Black stem rust).
<i>Berberis</i> spp. (barberry) destined to an eradication State listed in § 301.38–2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter).	All	<i>Puccinia graminis</i> Pers. (Black stem rust).
<i>Berberis</i> spp. (barberry) seed	All	<i>Puccinia graminis</i> Pers. (Black stem rust).
<i>Blighia sapida</i> (akee)	Cote d'Ivoire, Nigeria	Okra mosaic virus.
<i>Borassus</i> spp. (palmyra palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Brugmansia</i> spp.	Colombia	Datura Columbia virus.
<i>Caryota</i> spp. (fishtail palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Castanea</i> spp. (chestnut)	All	<i>Cryphonectria parasitica</i> (Murrill) Barr (chestnut blight); <i>Dryocosmus kuriphilus</i> Yasumatsu (gall wasp).
<i>Cedrus</i> spp. (cedar)	Europe	<i>Phaciopycnis pseudotsuga</i> (M. Wils.) Hahn (Douglas fir canker).
<i>Chaenomeles</i> spp. (flowering quince) not meeting the conditions for importation in § 319.37–5(b).	All	<i>Fusarium fuliginosporum</i> Sibilis (Seedling disease).
<i>Chrysalidocarpus</i> spp. (butterfly palm).	All	A diversity of diseases including but not limited to those listed for <i>Chaenomeles</i> in § 319.37–5(b)(1).
<i>Chrysanthemum</i> spp. (chrysanthemum).	Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Cocos</i> spp. (other than <i>Cocos nucifera</i>).	All	<i>Puccinia horiana</i> P. Henn. (white rust of chrysanthemum).
<i>Cocos nucifera</i> (coconut) (including seed) (Coconut seed without husk or without milk may be imported into the United States in accordance with § 319.56).	All except from Jamaica or Costa Rica if meeting the conditions for importation in § 319.37–5(g).	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Corypha</i> spp.	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Crocasmia</i> spp. (montebretia)	Africa	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Crocasmia</i> spp. (montebretia), except bulbs in commercial shipments.	Argentina, Uruguay	<i>Puccinia mcleanii</i> Doidge (rust), <i>Uredo gladioli-buettneri</i> Bub. (rust), <i>Uromyces gladioli</i> P. Henn. (rust), <i>U. nyikensis</i> Syd. (rust).
	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal	<i>U. gladioli</i> P. Henn. (rust).
		<i>U. transversalis</i> (Thuem.) Wint. (rust).

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
<i>Cydonia</i> spp. (quince) not meeting the conditions for importation in § 319.37–5(b).	All	A diversity of diseases including but not limited to those listed for <i>Cydonia</i> in § 319.37–5(b)(1).
<i>Datura</i> spp.	India	<i>Datura</i> distortion or enation mosaic virus.
<i>Datura</i> spp. (woody species)	(See <i>Brugmansia</i> spp.).	
<i>Dendranthema</i> spp. (chrysanthemum).	Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.	<i>Puccinia horiana</i> P. Henn. (white rust of chrysanthemum).
<i>Dictyosperma</i> spp. (Princesspalm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Elaeis</i> spp. (oil palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Erianthus</i> spp. (plumegrass)	All	<i>Puccinia melanocephala</i> H. Syd. & P. Syd. (Sugarcane rust).
<i>Eucalyptus</i> spp. (eucalyptus)	Europe, Sri Lanka, and Uruguay	<i>Pestalotia disseminata</i> Thuem. (parasitic leaf fungus).
<i>Euonymus</i> spp. (euonymus)	Europe, Japan	<i>Euonymus</i> mosaic diseases.
Fabaceae (=Leguminosae) (herbaceous spp. only).	All except Canada	A diversity of diseases including but not limited to: African soybean dwarf agent, alfalfa enation virus, azuki bean mosaic virus, bean golden mosaic virus, cowpea mild mottle virus, French bean mosaic virus, groundnut chlorotic leaf streak virus, groundnut chlorotic spotting virus, groundnut rosette agents, groundnut witches broom MLO, horsegram yellow mosaic virus, Indonesian soybean dwarf virus, lima bean mosaic virus, lucerne Australian symptomless virus, lucerne vein yellowing virus, mung bean yellow mosaic virus, peanut stripe virus, red clover mottle virus, and soybean dwarf virus.
<i>Fragaria</i> spp. (strawberry) not meeting the conditions for importation in § 319.37–5(h).	All except Canada	<i>Phytophthora fragariae</i> Hickman (Red stele disease).
<i>Fraxinus</i> spp. (ash)	Europe	<i>Pseudomonas savastanoi</i> var. <i>fraxini</i> (Brown) Dowson (Canker and dwarfing disease of ash).
<i>Gaussia</i> spp. (Ilumepalm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Gladiolus</i> spp. (gladiolus)	Africa	<i>Puccinia mcleanii</i> Doidge (rust), <i>Uredo gladioli-buettneri</i> Bub. (rust), <i>Uromyces gladioli</i> P. Henn. (rust), <i>U. nyikensis</i> Syd. (rust).
<i>Gladiolus</i> spp. (gladiolus), except bulbs in commercial shipments.	Argentina, Uruguay	<i>U. gladioli</i> P. Henn. (rust).
<i>Gossypium</i> spp. (cotton, cottontree).	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal	<i>U. transversalis</i> (Thuem.) Wint. (rust).
<i>Hibiscus</i> spp. (kenaf, hibiscus, rose mallow).	All	A diversity of diseases including but not limited to: cotton leaf curl virus; cotton virescence agent; small leaf virus.
<i>Howea</i> spp. (sentry palm) not meeting the conditions in § 319.37–5(n).	Africa	Cotton leaf curl agent.
<i>Hydrangea</i> spp. (hydrangea)	Brazil	Cotton anthocyanosis agent.
	India	Hibiscus leaf curl agent.
	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
	Japan	<i>Aecidium hydrangeae-paniculatea</i> Dietel.

<i>Hyophorbe</i> spp. (palm)	All	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.
<i>Ipomoea</i> spp. (sweetpotato)	All except Canada	A diversity of diseases including but not limited to: sweetpotato witches broom (little leaf); and sweetpotato viruses of eastern Africa.
<i>Jasminum</i> spp. (jasmine)	Belgium, Germany, Great Britain	Jasmine variegation diseases.
	India	Chlorotic ringspot, phyllody, yellow ring mosaic diseases.
	Philippines	Sampaguita yellow ringspot mosaic diseases.
<i>Juniperus</i> spp. (juniper)	Austria, Finland, and Romania	<i>Stigmima deflectans</i> (Karst) Ellis (Needlecast disease).
	Europe	<i>Phacidiopycnis pseudotsuga</i> (M. Wils.) Hahn (Douglas fir canker).
<i>Larix</i> spp. (larch)	Provinces of New Brunswick and Nova Scotia in Canada, Europe, and Japan.	<i>Lachnellula willkommii</i> (Hartig) Dennis (European larch canker).
	Europe	<i>Phacidiopycnis pseudotsuga</i> (M. Wils.) Hahn (Douglas fir canker).
<i>Latania</i> spp.	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Leersia</i> spp. (cutgrass) seed only (all other <i>Leersia</i> articles are included under <i>Poaceae</i>).	All	<i>Xanthomonas campestris</i> pv. <i>oryzae</i> (Ishiyama) Dye.
<i>Lens</i> spp. seed (lentil)	South America	<i>Uromyces viciae-fabae</i> (Pers.) Schroet. (Rust).
<i>Leptochloa</i> spp. (sprangletop) seed only (all other <i>Leptochloa</i> articles are included under <i>Poaceae</i>).	All	<i>Xanthomonas campestris</i> pv. <i>oryzae</i> (Ishiyama) Dye.
<i>Leucanthemella serotina</i>	Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude.	<i>Puccinia horiana</i> P. Henn. (white rust of chrysanthemum).
<i>Ligustrum</i> spp. (privet)	Europe	<i>Ligustrum</i> mosaic diseases.
<i>Livistona</i> spp. (fan palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Mahoberberis</i> spp. (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with §301.38–1 of this chapter).	All	<i>Puccinia graminis</i> Pers. (Black stem rust).
<i>Mahoberberis</i> spp. destined to an eradication State listed in §301.38–2(a) of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with §301.38–1 of this chapter).	All	<i>Puccinia graminis</i> Pers. (Black stem rust).
<i>Mahoberberis</i> spp. seed	All	<i>Puccinia graminis</i> Pers. (Black stem rust).

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
<i>Mahonia</i> spp. (mahonia) (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with §301.38–1 of this chapter).	All	<i>Puccinia graminis</i> Pers. (Black stem rust).
<i>Mahonia</i> spp. (mahonia) destined to an eradication State listed in §301.38–2(a) of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with §301.38–1 of this chapter).	All	<i>Puccinia graminis</i> Pers. (Black stem rust).
<i>Mahonia</i> spp. seed	All	<i>Puccinia graminis</i> Pers. (Black stem rust).
<i>Malus</i> spp. (apple, crabapple) not meeting the conditions for importation in §319.37–5(b).	All	A diversity of diseases including but not limited to those listed for <i>Malus</i> in §319.37–5(b)(1).
<i>Mangifera</i> spp. (mango) seed only. (Prohibition not applicable to seeds imported into Guam, Hawaii, and the Northern Mariana Islands).	All except Guimaras Island (Republic of the Philippines) and North and South America (excluding Barbados, the British Virgin Islands, Dominica, French Guiana, Grenada, Guadeloupe, Martinique, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago).	<i>Sternochetus mangiferae</i> F. (mango seed weevil).
<i>Manihot</i> spp. (cassava)	All except Canada	A diversity of diseases, insects, and other pests including but not limited to: <i>Mononychellus tanajoa</i> (Bondar) (cassava mite); <i>Phenococcus manihotis</i> Matile-Ferrero (cassava mealybug); <i>Xanthomonas manihotis</i> (Arthand-Berthet) Starr (Bacterial blight); Cassava brown streak virus; Cassava latent virus; Cassava African mosaic virus; Cassava common mosaic virus.
<i>Mascarena</i> spp.	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Morus</i> spp. (mulberry)	India, Japan, Korea, People's Republic of China, Thailand, and the geographic area formerly known as the Union of Soviet Socialist Republics.	Mulberry dwarf or mulberry mosaic diseases.
<i>Nannorrhops</i> spp. (mazaripalm) ...	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Neodypsis</i> spp. (palm)	All	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.
<i>Nipponanthemum nipponicum</i>	Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude.	<i>Puccinia horiana</i> P. Henn. (white rust of chrysanthemum).
<i>Pelargonium</i> spp. not meeting the conditions for importation in §319.37–5(r).	All	Potato brown rot (<i>Ralstonia solanacearum</i> race 3 biovar 2).
<i>Persea</i> spp. (avocado) seed	Central and South America, and Mexico	<i>Heilipus lauri</i> Boh. (Avocado weevil); <i>Stenomoma catenifer</i> Wals. (Avocado seed moth); <i>Conotrachelus</i> spp.
<i>Philadelphus</i> spp. (mock orange)	Europe	Elm mottle virus.

<i>Phoenix</i> spp. (date)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Picea</i> spp. (spruce)	Europe, Japan, and Siberia	<i>Chrysomyxa ledi</i> (Alb. & Schw.) d By var. <i>rhododendri</i> (DC) Savile. (Rhododendron-spruce needle rust).
<i>Pinus</i> spp. (pine) (2- or 3-leaved)	Europe. Europe and Japan	<i>Phacidomyces pseudotsuga</i> (M. Wils.) Hahn (Douglas fir canker). <i>Cronartium flaccidum</i> (Alb. & Schw.) Wint. (Rust causing serious stunting of hard pines.)
<i>Poaceae</i> (vegetative parts of all grains and grasses, except species of <i>Bambuseae</i>).	Japan. All except Canada	Gall-forming rust. A wide diversity of plant diseases, including but not limited to: banana streak virus, barley yellow mosaic virus, barley yellow striate mosaic virus, brome streak mosaic virus, cereal chlorotic mosaic virus, cocksfoot mild mosaic virus, corn stunt Spiroplasma, Cynodon chlorotic streak virus, cynosurus mottle virus, Echinochloa ragged stunt virus, European aster yellows MLO, European wheat striate mosaic virus, Iranian maize mosaic virus, maize bushy stunt MLO, maize chlorotic mottle virus, maize mosaic virus, maize mottle/chlorotic stunt virus, maize rough dwarf virus, maize streak virus, maize stripe virus, northern cereal mosaic virus, oat red streak mosaic virus, oat sterile dwarf virus, rice dwarf virus, rice gall dwarf virus, rice tungro virus, rice wilted stunt virus, rice yellow mottle virus, rice yellow dwarf agent, yellow dwarf agent, sugarcane white leaf MLO, wheat yellow leaf virus, and wheat yellowing stripe bacterium.
<i>Populus</i> spp. (aspen, cottonwood, poplar).	Europe	<i>Xanthomonas populi</i> Ride (Canker).
<i>Pritchardia</i> spp.	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Prunus</i> spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) not meeting the conditions for importation in §319.37–5(b).	All	A diversity of diseases including but not limited to those listed for <i>Prunus</i> in §319.37–5(b)(1).
<i>Prunus</i> spp. seed only (almond, apricot, nectarine, peach, plum, and prune, but not species in subgenus <i>Cerasus</i>) not meeting the conditions for importation in §319.37–5(j).	All	Plum pox (Sharka) virus.
<i>Pseudolarix</i> spp. (golden larch)	Provinces of New Brunswick and Nova Scotia in Canada, Europe, and Japan.	<i>Lachnellula willkommii</i> (Hartig) Dennis (European larch canker).
<i>Pseudotsuga</i> spp. (Douglas fir)	Europe	<i>Phacidomyces pseudotsuga</i> (M. Wils.) Hahn (Douglas fir canker).
<i>Pyrus</i> spp. (pear) not meeting the conditions for importation in §319.37–5(b).	All	A diversity of diseases including but not limited to those listed for <i>Pyrus</i> in §319.37–5(b)(1).
<i>Quercus</i> spp. (oak)	Japan	<i>Stereum hiugense</i> Imazeki (White rot); a gall-forming rust.
<i>Ravenea</i> spp. (palm)	All	A diversity of diseases including but not limited to: lethal yellowing disease; cadang-cadang disease.
<i>Ribes</i> spp. (currant, gooseberry) ..	Europe and New Zealand	Black currant reversion agent.
<i>Rosa</i> spp. (rose)	Australia, Bulgaria, Italy, and New Zealand	Rose wilt virus.
<i>Salix</i> spp. (willow)	Belgium, Germany, Great Britain, Japan, and the Netherlands	<i>Erwinia salicis</i> (Day) Chester (Watermark disease).
Seeds of all kinds when in pulp ...	All except Canada	Fruit flies, or other injurious insects.

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
<i>Solanum</i> spp. (potato) (tuber bearing species only—Section Tuberarium), including potato tubers.	All except Canada (except Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road)..	Andean potato latent virus; Andean potato mottle virus; potato mop top virus; dulcamara mottle virus; tomato blackring virus; tobacco rattle virus; potato virus Y (tobacco vein necrosis strain); potato purple top wilt agent; potato marginal flavescence agent; potato purple top roll agent; potato witches broom agent; stolbur agent; parastolbur agent; potato leaflet stunt agent; potato spindle tuber viroid; arracacha virus B; potato yellowing virus.
<i>Solanum</i> spp. true seed (tuber bearing species only—Section Tuberarium).	All except Canada, New Zealand, and the X region of Chile (that area of Chile between 39° and 44° South latitude—see §319.37–5(o)).	Andean potato latent virus, potato virus T, tobacco ringspot virus (Andean potato calico strain); arracacha virus B; potato yellowing virus.
<i>Solanum</i> spp. not meeting the conditions for importation in §319.37–5(r).	All	Potato brown rot (<i>Ralstonia solanacearum</i> race 3 biovar 2).
<i>Sorbus</i> spp. (mountain ash)	Czech Republic, Denmark, Germany, Slovakia	Mountain ash variegation or ringspot mosaic disease.
<i>Syringa</i> spp. (lilac) not meeting the conditions for importation in §319.37–5(i).	Europe	Elm mottle virus.
<i>Theobroma</i> spp. (cacao)	All	A diversity of diseases and pests including but not limited to: cocoa swollen shoot virus, cocoa mottle leaf virus, cocoa yellow mosaic virus, cocoa necrosis virus, <i>Crinipellis perniciososa</i> (Stahel) Singer (witches broom fungus), <i>Monilia roreri</i> — <i>Moniliophthora roreri</i> (CiF.) H.C. Evans <i>et al.</i> (watery pod rot), cocoa isolates of <i>Ceratocystis fimbriata</i> Ellis and Halst (wilts), <i>Trachysphaera fructigena</i> Tabor and Bunting (mealy pod agents of cushy gall disease), <i>Oncobasidium theobromae</i> Talbot and Keane (vascular streak die-back), <i>Xyleborus</i> spp. beetles and <i>Acrocercops cramei</i> (Snellen) (cocoa moth).
<i>Trachycarpus</i> spp. (windmill palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Ulmus</i> spp. (elm) (including seeds).	Europe	Elm mottle virus.
<i>Veitchia</i> spp.	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
<i>Vitis</i> spp. (grape) not meeting the conditions for importation in §319.37–5(b).	All	A diversity of diseases including but not limited to those specified for <i>Vitis</i> in §319.37–5(b)(1).
<i>Watsonia</i> spp. (bugle lily)	Africa	<i>Puccinia mcleanii</i> Doidge (rust), <i>Uredo gladioli-buettneri</i> Bub. (rust), <i>Uromyces gladioli</i> P. Henn. (rust), <i>U. nyikensis</i> Syd. (rust).
<i>Watsonia</i> spp. (bugle lily), except bulbs in commercial shipments.	Argentina, Uruguay	<i>U. gladioli</i> P. Henn. (rust).
<i>Zizania</i> spp. (wild rice) seed only (all other <i>Zizania</i> articles are included under Poaceae).	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal	<i>U. transversalis</i> (Thuem.) Wint. (rust).
	All except Canada	<i>Xanthomonas campestris</i> pv. <i>oryzae</i> (Ishiyama) Dye.

(b) The following listed articles from all foreign places except Canada are prohibited articles and are prohibited from being imported or offered for entry into the United States except as provided in paragraph (c) of this section:

(1) *Rhododendron* spp. (rhododendron and azalea) or other genera or species of similar slow growth habit, other than artificially dwarfed plants meeting the conditions in §319.37-5(q):

(i) Exceeding 3 years of age if grown from seeds or cuttings; or

(ii) Exceeding 2 years of age after severance from the parent plant if produced by layers; or

(iii) Having more than 3 years' growth from the bud or graft if produced by budding or grafting.

(2) Any naturally dwarf or miniature form of tree or shrub exceeding 305 millimeters (approximately 12 inches) in length from the soil line.

(3) Herbaceous perennials (except epiphytes) imported in the form of root crowns or clumps exceeding 102 millimeters (approximately 4 inches) in diameter.

(4) Stem cuttings without leaves, without roots, without sprouts, and without branches (other than cactus cuttings and cuttings of epiphytes) exceeding 102 millimeters (approximately 4 inches) in diameter or exceeding 1.83 meters (approximately 6 feet) in length; and stem cuttings of epiphytes with or without aerial roots (without leaves, without sprouts, and without branches) exceeding 102 millimeters (approximately 4 inches) in diameter or exceeding 1.83 meters (approximately 6 feet) in length.

(5) Cactus cuttings (without roots or branches) exceeding 153 millimeters (approximately 6 inches) in diameter or exceeding 1.22 meters (approximately 4 feet) in length.

(6)(i) Plants (other than stem cuttings, cactus cuttings, artificially dwarfed plants meeting the conditions in §319.37-5(q), and palms and plants whose growth habits simulate palms) exceeding 460 millimeters (approximately 18 inches) in length from soil line (top of rooting zone for plants produced by air layering) to the farthest terminal growing point and whose growth habits simulate the woody hab-

its of trees and shrubs, including but not limited to cacti, cycads, yuccas, and dracaenas.

(ii) Palms and plants whose growth habits simulate palms, that exceed a total length (stem plus leaves) of 915 millimeters (approximately 36 inches) in length.

(7) Any tree or shrub of a type not listed above, other than an artificially dwarf plant meeting the conditions in §319.37-5(q), and:

(i) Exceeding 2 years of age if grown from seeds or cuttings; or

(ii) Exceeding 1 year of age after severance from the parent plant if produced by layers; or

(iii) Having more than 2 years' growth from the bud or graft if produced by budding or grafting.

(c) Any article listed as a prohibited article in paragraph (a) or (b) of this section may be imported or offered for entry into the United States if:

(1) Imported by the United States Department of Agriculture for experimental or scientific purposes;

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville, MD 20705 or at a port of entry designated by an asterisk in §319.37-14(b);

(3) Imported pursuant to a Departmental permit issued for such article and kept on file at the port of entry;

(4) Imported under conditions specified on the Departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of plant pests, i.e., conditions of treatment, processing, growing, shipment, disposal; and

(5) Imported with a Departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a Departmental permit number corresponding

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to the number of the Departmental permit issued for such article.

[45 FR 31585, May 13, 1980; 45 FR 35305, May 27, 1980, as amended at 56 FR 19790, Apr. 30, 1991; 57 FR 334, Jan. 6, 1992; 57 FR 43145, 43147, 43148, Sept. 18, 1992; 59 FR 9918, Mar. 2 1994; 59 FR 44610, Aug. 30, 1994; 60 FR 8924, Feb. 16, 1995; 62 FR 50238, Sept. 25, 1997; 63 FR 13485, Mar. 20, 1998; 67 FR 53730, Aug. 19, 2002; 68 FR 28118, May 23, 2003; 68 FR 50043, Aug. 20, 2003]

§ 319.37-3 Permits.

(a) The restricted articles (other than articles for food, analytical, medicinal, or manufacturing purposes) in any of the following categories may be imported or offered for importation into the United States only after issuance of a written permit by the Plant Protection and Quarantine Programs:

(1) Articles subject to treatment and other requirements of § 319.37-6;

(2) Articles subject to the postentry quarantine conditions of § 319.37-7;

(3) Bulbs of *Allium sativum* spp. (garlic), *Crocasmia* spp. (montebretia), *Glad-iolus* spp. (gladiolus), and *Watsonia* spp. (bugle lily) from New Zealand;

(4) Articles of *Cocos nucifera* (coco-nut); and articles (except seeds) of *Dianthus* spp. (carnation, sweet-william) from any country or locality except Canada;

(5) Lots of 13 or more articles (other than seeds, bulbs, or sterile cultures of orchid plants) from any country or locality except Canada;

(6) Seeds of trees or shrubs from any country or locality except Canada;

(7) Articles (except seeds) of *Malus* spp. (apple, crabapple), *Pyrus* spp. (pear), *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune), *Cydonia* spp. (quince), *Chaenomeles* spp. (flowering quince), and *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry), from Canada;

(8) Articles (except seeds) of *Castanea* spp. (chestnut) or *Castanopsis* spp. (chinquapin) destined to California or Oregon;

(9) Articles (except seeds) of *Pinus* spp. (pine), (5-leaved) destined to Wisconsin;

(10) Articles of *Ribes* spp. (currant, gooseberry), (including seeds) destined to Massachusetts, New York, West Virginia, or Wisconsin;

(11) Articles (except seeds) of *Planera* spp. (water elm, planer) or *Zelkova* spp. from Europe, Canada, St. Pierre Island, or Miquelon Island and destined to California, Nevada, or Oregon;

(12) Seeds of *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) from Canada and destined to Colorado, Michigan, New York, Washington, or West Virginia;

(13) Articles (except seeds) of *Vitis* spp. (grape) from Canada and destined to California, New York, Ohio, Oregon, and Washington;

(14) Articles (except seeds) of *Corylus* spp. (filbert, hazel, hazelnut, cobnut) from provinces east of Manitoba in Canada and destined to Oregon or Washington;

(15) Articles (except seeds) of *Pinus* spp. (pine) from Canada;

(16) Articles (except seeds) of *Ulmus* spp. (elm) from Canada and destined to California, Nevada, or Oregon;

(17) *Solanum tuberosum* true seed from New Zealand and the X Region of Chile (that area of Chile between 39° and 44° South latitude—see § 319.37-5(o)); and

(18) Small lots of seed imported in accordance with § 319.37-4(d) of this subpart.

(b) An application for a written permit should be submitted to the Plant Protection and Quarantine Programs (Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236) at least 30 days prior to arrival of the article at the port of entry. The completed application shall include the following information:⁴

(1) Name, address, and telephone number of the importer;

(2) Approximate quantity and kinds (botanical designations) of articles intended to be imported;

(3) Country(ies) or locality(ies) where grown;

⁴Application forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236, local offices which are listed in telephone directories.

(4) Intended United States port of entry;

(5) Means of transportation, e.g., mail, airmail, express, air express, freight, airfreight, or baggage; and

(6) Expected date of arrival.

(c) A permit indicating the applicable conditions for importation under this subpart will be issued by Plant Protection and Quarantine Programs if, after review of the application, the articles are deemed eligible to be imported into the United States under the conditions specified in the permit. However, even if such a permit is issued, the regulated article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no remedial measures pursuant to the Plant Protection Act are necessary with respect to the regulated article.⁵

(d) Any permit which has been issued may be withdrawn by an inspector or the Deputy Administrator if he/she determines that the holder thereof has not complied with any condition for the use of the document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

(e) Any restricted article not designated in paragraph (a) of this section may be imported or offered for importation into the United States only after issuance of an oral permit for importation issued by an inspector at the port of entry.

⁵ An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

(f) An oral permit for importation of an article shall be issued at a port of entry by an inspector only if all applicable requirements of this subpart are met, such article is eligible to be imported under an oral permit, and an inspector at the port of entry determines that no measures pursuant to section 414 of the Plant Protection Act (7 U.S.C. 7714) are necessary with respect to such article.⁵

(Approved by the Office of Management and Budget under control number 0579-0049)

[45 FR 31585, May 13, 1980, as amended at 48 FR 57466, Dec. 30, 1983; 57 FR 43148, Sept. 18, 1992; 59 FR 67610, Dec. 30, 1994; 60 FR 8924, Feb. 16, 1995; 66 FR 21055, Apr. 27, 2001; 69 FR 61586, Oct. 20, 2004; 71 FR 19101, Apr. 13, 2006]

§319.37-4 Inspection, treatment, and phytosanitary certificates of inspection.

(a) *Phytosanitary certificates of inspection.* Except for small lots of seed imported in accordance with paragraph (d) of this section, any restricted article offered for importation into the United States must be accompanied by a phytosanitary certificate of inspection or, in the case of greenhouse-grown plants from Canada imported in accordance with paragraph (c) of this section, a certificate of inspection in the form of a label in accordance with paragraph (c)(1)(iv) of this section attached to each carton of the articles and to an airway bill, bill of lading, or delivery ticket accompanying the articles.

(b) *Inspection and treatment.* Any restricted article may be sampled and inspected by an inspector at the port of first arrival and/or under preclearance inspection arrangements in the country in which the article was grown, and must undergo any treatment contained in part 305 of this chapter that is ordered by the inspector. Any restricted article found upon inspection to contain or be contaminated with plant pests, that cannot be eliminated by treatment, shall be denied entry at the first United States port of arrival.

(c) *Greenhouse-grown plants from Canada.* A greenhouse-grown restricted plant may be imported from Canada if the Plant Health and Production Division of the Canadian Food Inspection

Agency (CFIA) signs a written agreement with the Animal and Plant Health Inspection Service allowing such importation, and provided that the following conditions are met:

(1) The Plant Health and Production Division of CFIA shall:

(i) Eliminate individual inspections and phytosanitary certification of each shipment of articles exported in accordance with this section;

(ii) Enter into written agreements with, and assign a unique identification number to, each greenhouse grower participating in the greenhouse program;

(iii) Inspect greenhouses and the plants being grown in them using inspection methods and schedules approved by Plant Protection and Quarantine to ensure that the criteria of this subsection are met;

(iv) Issue labels to each grower participating in the program. The labels issued to each grower shall bear a unique number identifying that grower, and shall bear the following statement: "This shipment of greenhouse-grown plants meets the import requirements of the United States, and is believed to be free from injurious plant pests. Issued by Plant Health and Production Division, Canadian Food Inspection Agency." The Plant Health and Production Division, CFIA, shall also ensure that the label is placed on the airway bill, bill of lading, or delivery ticket accompanying each shipment of articles; and

(v) Ensure that only plants that are not excluded shipment by the criteria of this subsection are shipped.

(2) Each greenhouse grower participating in the program shall enter into an agreement with the Plant Health and Production Division of CFIA in which the grower agrees to:

(i) Maintain records of the kinds and quantities of plants grown in their greenhouses, including the date of receipt and place of origin of the plants; keep the records for at least 1 year after the plants are shipped to the United States; and make the records available for review and copying upon request by either the Plant Health and Production Division of CFIA or an authorized representative of the Secretary of Agriculture;

(ii) Apply to an airway bill, bill of lading, or delivery ticket for plants to be shipped to the United States a label issued by CFIA that includes the identification number assigned to the grower by the Plant Health and Production Division, CFIA, and the following certification statement: "This shipment of greenhouse grown plants meets the import requirements of the United States and is believed to be free from injurious plant pests. Issued by Plant Health and Production Division, Canadian Food inspection Agency."; and

(iii) Use pest control practices approved by Plant Protection and Quarantine and the Plant Health and Production Division of CFIA to exclude pests from the greenhouses.

(d) *Small lots of seed.* Lots of seed may be imported without a phytosanitary certificate required by paragraph (a) of this section under the following conditions:

(1) The importation of the seed is authorized by a written permit issued in accordance with § 319.37-3.

(2) The seed is not of any prohibited genera listed in § 319.37-2; is not of any noxious weed species listed in part 360 of this chapter; does not require an additional declaration on a phytosanitary certificate in accordance with § 319.37-5; does not require treatment in accordance with § 319.37-6; is not restricted under the regulations in parts 330 and 340 of this chapter; and meets the requirements of part 361 of this chapter.

(3) The seed meets the following packaging and shipping requirements:

(i) Each seed packet is clearly labeled with the name of the collector/shipper, the country of origin, and the scientific name at least to the genus, and preferably to the species, level;

(ii) There are a maximum of 50 seeds of 1 taxon (taxonomic category such as genus, species, cultivar, etc.) per packet; or a maximum weight not to exceed 10 grams of seed of 1 taxon per packet;

(iii) There are a maximum of 50 seed packets per shipment;

(iv) The seeds are free from pesticides;

(v) The seeds are securely packaged in packets or envelopes and sealed to prevent spillage;

(vi) The shipment is free from soil, plant material other than seed, other

foreign matter or debris, seeds in the fruit or seed pod, and living organisms such as parasitic plants, pathogens, insects, snails, mites; and

(vii) At the time of importation, the shipment is sent to either the Plant Germplasm Quarantine Center in Beltsville, MD, or a port of entry listed in §319.37-14(b) and designated by an asterisk.

(Approved by the Office of Management and Budget under control number 0579-0285)

[57 FR 43148, Sept. 18, 1992, as amended at 67 FR 8465, Feb. 25, 2002; 68 FR 50045, Aug. 20, 2003; 70 FR 33324, June 7, 2005; 71 FR 19101, Apr. 13, 2006]

§319.37-5 Special foreign inspection and certification requirements.

(a) Any restricted article (except seeds; unrooted cuttings; articles collected from the wild; and articles solely for food, analytical, or manufacturing purposes) from a country listed below, at the time of arrival at the port of first arrival in the United States shall be accompanied by a phytosanitary certificate of inspection which shall contain an accurate additional declaration that such article was grown on land which has been sampled and microscopically inspected by the plant protection service of the country in which grown within 12 months preceding issuance of the certificate and found free from potato cyst nematodes, *Globodera rostochiensis* (Woll.) Behrens and *G. pallida* (Stone) Behrens:

Algeria, Argentina, Australia, Austria, Azores, Belgium, Bolivia, Bulgaria, Canada (only that portion comprising Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road), Channel Islands, Chile, Colombia, Costa Rica, Crete, Cyprus, Czechoslovakia, Denmark (including Faeroe Islands), Ecuador, Egypt, Federal Republic of Germany (West), Finland, France, German Democratic Republic (East), Great Britain, Greece, Guernsey, Hungary, Iceland, India, Ireland, Italy, Japan, Jersey, Jordan, Lebanon, Luxembourg, Malta, Mexico, Morocco, The Netherlands, New Zealand, Northern Ireland, Norway, Pakistan, Panama, Peru, the Philippines, Poland, Portugal, South Africa, Spain (including Canary Islands), Sweden, Switzerland, Tunisia, Union of Soviet Socialist Republics, Venezuela, and Yugoslavia.

(b)(1) Any of the following restricted articles (except seeds) at the time of arrival at the port of first arrival in the United States must be accompanied by a phytosanitary certificate of inspection which contains an additional declaration that the article was grown in a nursery in Belgium, Canada, Federal Republic of Germany, France, Great Britain, or The Netherlands and that the article was found by the plant protection service of the country in which the article was grown to be free of the following injurious plant diseases listed in paragraph (b)(3) of this section: For *Chaenomeles* spp. (flowering quince) and *Cydonia* spp. (quince), diseases (i), (ii), (iv), (xviii), (xix), (xx), and (xxi); for *Malus* spp. (apple, crabapple), diseases (i), (ii), (iii), (vi), (vii), (xxii), and (xxiii); for *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune), diseases (i), (ix) through (xvii), and (xxii); and for *Pyrus* spp. (pear), diseases (i), (ii), (iv), (v), (xviii), (xix), (xx), (xxi) and (xxii); and for *Vitis* spp. (grape) from Canada, diseases (xiv) through (xvii) and (xxiv) through (xliii). The determination by the plant protection service that the article is free of these diseases will be based on visual examination and indexing of the parent stock of the article and inspection of the nursery where the restricted article is grown to determine that the nursery is free of the specified diseases. An accurate additional declaration on the phytosanitary certificate of inspection by the plant protection service that a disease does not occur in the country in which the article was grown may be used in lieu of visual examination and indexing of the parent stock for that disease and inspection of the nursery.

(2) Species of *Prunus* not immune to plum pox virus (species other than *P. avium*, *P. cerasus*, *P. effusa*, *P. laurocerasus*, *P. mahaleb*, *P. padus*, *P. sargentii*, *P. serotina*, *P. serrula*, *P. serrulata*, *P. subhirtella*, *P. yedoensis*, and *P. virginiana*) and grown in Belgium, France, Germany, Great Britain, or The Netherlands shall be certified only from the government operated nurseries (research stations) where the certified plants were grown and the original parent stock is indexed for the

appropriate national fruit tree certification program.

(3) List of diseases.

(i) *Monilinia fructigena* (Aderh. & Ruhl.) Honey (Brown rot of fruit).

(ii) *Guignardia piricola* (Nose) Yamamoto (Leaf, branch, and fruit disease).

(iii) Apple proliferation agent.

(iv) Pear blister canker virus.

(v) Pear bud drop virus.

(vi) *Diaporthe mali* Bres. (Leaf, branch & fruit fungus).

(vii) Apple green crinkle virus.

(viii) Apple chat fruit virus.

(ix) Plum pox (=Sharka) virus.

(x) Cherry leaf roll virus.

(xi) Cherry rusty mottle (European) agent.

(xii) Apricot chlorotic leaf roll agent.

(xiii) Plum bark split virus.

(xiv) Arabis mosaic virus and its strains.

(xv) Raspberry ringspot virus and its strains.

(xvi) Tomato blackring virus and its strains.

(xvii) Strawberry latent ringspot virus and its strains.

(xviii) Quince sooty ringspot agent.

(xix) Quince yellow blotch agent.

(xx) Quince stunt agent.

(xxi) *Gymnosporangium asiaticum* Miyabe ex. Yamada (Rust).

(xxii) *Valsa mali* Miyabe and Yamada ex. Miura (Branch canker fungus).

(xxiii) Apple ringspot virus.

(xxiv) The following nematode transmitted viruses of the polyhedral type: Artichoke Italian latent virus, Grapevine Bulgarian latent virus, Grapevine fanleaf virus and its strains, and Hungarian chrome mosaic virus.

(xxv) Grapevine asteroid mosaic agent.

(xxvi) Grapevine Bratislava mosaic virus.

(xxvii) Grapevine chasselas latent agent.

(xxviii) Grapevine corky bark "Legno riccio" agent.

(xxix) Grapevine leaf roll agent.

(xxx) Grapevine little leaf agent.

(xxxi) Grapevine stem pitting agent.

(xxxii) Grapevine vein mosaic agent.

(xxxiii) Grapevine vein necrosis agent.

(xxxiv) Flavescence-doree agent.

(xxxv) Black wood agent (bois-noir).

(xxxvi) Grapevine infectious necrosis bacterium.

(xxxvii) Grapevine yellows disease bacterium.

(xxxviii) *Xanthomonas ampelina* Panagopoulos.

(xxxix) *Peyronellaea glomerata* Ciferri.

(xl) *Pseudopeziza tracheiphila* Muller-Thurgau.

(xli) *Rhacodiella vitis* Sterenberg.

(xlii) *Rosellinia necatrix* Prill.

(xliii) *Septoria melanosa* (Violla and Ravav) Elenk.

(c) Any restricted article (except seeds) of *Chrysanthemum* spp. (chrysanthemum), *Dendranthema* spp. (chrysanthemum), *Leucanthemella serotina*, or *Nipponanthemum nipponicum*, from any foreign place except Europe, Argentina, Brazil, Canada, the Canary Islands, Chile, Colombia, the Republic of South Africa, Uruguay, Venezuela, and all countries and localities located in part or entirely between 90° and 180° east longitude shall, at the time of arrival at the port of first arrival in United States, be accompanied by a phytosanitary certificate of inspection. The phytosanitary certificate of inspection must contain a declaration that such article was grown in a greenhouse nursery and found by the plant protection service of the country in which grown to be free from white rust of chrysanthemum (caused by the rust fungus *Puccinia horiana* P. Henn.) based on visual examination of the parent stock, the articles for importation, and the greenhouse nursery in which the articles for importation and the parent stock were grown, once a month for 4 consecutive months immediately prior to importation.

(d) Any restricted article (except seeds) of *Dianthus* spp. (carnation, sweet-william) from Great Britain shall be grown under postentry quarantine conditions specified in § 319.37-7(c) unless at the time of arrival at the port of first arrival in the United States the phytosanitary certificate of inspection accompanying such article contains an accurate additional declaration that such article was grown in a greenhouse nursery in Great Britain and found by the plant protection service of Great Britain to be free from injurious plant diseases caused by *Phialophora cinerescens* (Wr.) van

Beyma (= *Verticillium cinerescens* Wr.), carnation etched ring virus, carnation "streak" virus, and carnation "fleck" virus, based on visual examination of the parent stock, of the articles for importation, and of the greenhouse nursery in which the articles for importation and the parent stock are grown, once a month for 4 consecutive months immediately prior to importation, and based on indexing of the parent stock.

(e) Any restricted article (except seeds) of *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry) from Canada, shall be grown under postentry quarantine conditions specified in §319.37-7 unless at the time of arrival at the port of first arrival in the United States the phytosanitary certificate of inspection accompanying such article contains an accurate additional declaration that such article was found by the plant protection service of Canada to be free of *Rubus* stunt agent based on visual examination and indexing of the parent stock.⁶

(f) Any restricted article (except seeds) of *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry) from Europe at the time of arrival at the port of first arrival in the United States shall be accompanied by a phytosanitary certificate of inspection which shall contain an accurate additional declaration that such article was found by the plant protection service of the country of origin to be free of *Rubus* stunt agent based on visual examination and indexing of the parent stock.

(g) Any seed of *Cocos nucifera* (coconut) at the time of arrival at the port of first arrival in the United States shall be accompanied by a phytosanitary certificate of inspection which shall contain an accurate additional declaration that such seed was found by the plant protection service of Costa Rica or of Jamaica to be of Malayan dwarf variety or Maypan variety (=F₁ hybrid, Malayan Dwarf×Panama Tall) (which are resistant to lethal yellowing disease) based on visual examination of the parent stock.

⁶Such testing is done under a Raspberry Plant Certification Program of Canada.

(h) Any restricted article of *Fragaria* spp. (strawberry) from Israel is prohibited as specified in §319.37-2(a) unless at the time of arrival at the port of first arrival in the United States the phytosanitary certificate accompanying the article of *Fragaria* spp. contains an additional declaration that stipulates that the parent stock was found free of red stele disease pathogen as well as any other damaging strawberry pathogens, based on visual inspection and indexing.

(i) Any restricted article of *Syringa* spp. (lilac) from the Netherlands is prohibited as specified in §319.37-2(a) unless, at the time of arrival at the port of first arrival in the United States, the phytosanitary certificate accompanying the article of *Syringa* spp. (lilac) contains a declaration that stipulates that the parent stock was found free of plant diseases by inspection and indexing and that the *Syringa* spp. (lilac) to be imported were propagated either by rooting cuttings from indexed parent plants or by grafting indexed parent plant material on seedling rootstocks, and were grown in:

(1) Fumigated soil (fumigated by applying 400 to 870 pounds of methyl bromide per acre and covering the soil with a tarpaulin for 7 days) in a field at least 3 meters from the nearest non-indexed *Syringa* spp. (lilac), or

(2) Soil that has been sampled and microscopically inspected by the plant protection service of the Netherlands within 12 months preceding issuance of the phytosanitary certificate and that has been found free of the plant parasitic nematodes capable of transmitting European nepoviruses, including, but not limited to, the Arabis mosaic nepovirus.

(j)(1) Seeds of *Prunus* spp. (almond, apricot, nectarine, peach, plum, and prune, but not species in the subgenus *Cerasus*) from Belgium, France, Federal Republic of Germany, The Netherlands, or Great Britain shall, at the time of arrival at the port of first arrival in the United States, be accompanied by a phytosanitary certificate of inspection, containing accurate additional declarations that:

(i) The seeds are from parent stock grown in a nursery in Belgium, France, Federal Republic of Germany, The

Netherlands, or Great Britain that is free of plum pox (Sharka) virus; and

(ii) The seeds have been found by the plant protection service of the country in which grown to be free of plum pox (Sharka) virus based on the testing of parent stock by visual examination and indexing.

(2) Seeds of *Prunus* spp. (almond, apricot, nectarine, peach, plum, and prune, but not species in the subgenus *Cerasus*), from all countries except those in Europe, Cyprus, Syria, and Turkey shall, at the time of arrival at the port of first arrival in the United States, be accompanied by a phytosanitary certificate of inspection, containing an accurate additional declaration that plum pox (Sharka) virus does not occur in the country in which the seeds were grown.

(k) Any restricted article of *Feijoa* (feijoa, pineapple guava) from New Zealand shall undergo postentry quarantine in accordance with §319.37-7 unless the article, at the time of arrival at the port of first arrival in the United States, is accompanied by a phytosanitary certificate of inspection, containing an accurate additional declaration that New Zealand is free of *Monilinia fructigena*.

(l) Any restricted article of *Gladiolus*, *Watsonia* or *Crocasmia* spp. from Luxembourg or Spain shall, at the time of arrival at the port of first arrival in the United States, be accompanied by a phytosanitary certificate of inspection, containing accurate additional declarations that:

(1) The plants were grown in a disease free environment in a greenhouse;

(2) The plants were subjected to 12 hours of continuous misting per day with water at 15-20 degrees Celsius on 2 consecutive days; and

(3) The plants were inspected by a plant quarantine official of the country where grown 20 days after the completion of the misting and were found free of gladiolus rust.

(m) Any restricted article of *Acer palmatum* or *Acer japonicum* from the Netherlands is prohibited unless the article is accompanied, at the time of arrival at the port of first arrival in the United States, by a phytosanitary certificate of inspection, containing an accurate additional declaration that the

article is of a nonvariegated variety of *A. palmatum* or *A. japonicum*.

(n) Any restricted article of *Howea* spp. (sentry palm) from Australia or New Zealand, is prohibited as specified in §319.37-2(a) unless at the time of arrival at the port of first arrival in the United States the phytosanitary certificate accompanying the article of *Howea* spp. contains both a declaration of origin and a declaration stipulating that the *Howea* is free of the lethal yellowing pathogen and the cadang-cadang pathogen, as well as any other damaging palm pathogens, based on visual inspection.

(o) Any *Solanum tuberosum* true seed imported from Chile shall, at the time of arrival at the port of first arrival in the United States, be accompanied by a phytosanitary certificate of inspection issued in Chile by the Servicio Agrícola y Ganadero (SAG), containing additional declarations that:

(1) The *Solanum* spp. true seed was produced by *Solanum* plants that were propagated from plantlets from the United States;

(2) The *Solanum* plants that produced the *Solanum tuberosum* true seed were grown in the Tenth (X) Region of Chile (that area of the country between 39° and 44° South latitude); and

(3) *Solanum tuberosum* tubers, plants, and true seed from each field in which the *Solanum* plants that produced the *Solanum tuberosum* true seed were grown have been sampled by SAG once per growing season at a rate to detect 1 percent contamination with a 99 percent confidence level (500 tubers/500 plants/500 true seeds per 1 hectare/2.5 acres), and that the samples have been analyzed by SAG using an enzyme-linked immunosorbent assay (ELISA) test or nucleic acid spot hybridization (NASH) non-reagent test, with negative results, for Andean Potato Latent Virus, Arracacha Virus B, Potato Virus T, the Andean Potato Calico Strain of Tobacco Ringspot Virus, and Potato Yellowing Virus.

(p) In addition to meeting the requirements of this subpart, any trees with roots and any shrubs with roots and persistent woody stems, unless greenhouse-grown throughout the year, that are imported from Canada will be

subject to the inspection and certification requirements for gypsy moth in §319.77-4 of this part.

(q) Any artificially dwarfed plant imported into the United States, except for plants that are less than 2 years old, must have been grown and handled in accordance with the requirements of this paragraph and must be accompanied by a phytosanitary certificate of inspection that was issued by the government of the country where the plants were grown.

(1) Any growing media, including soil, must be removed from the artificially dwarfed plants prior to shipment to the United States unless the plants are to be imported in accordance with §319.37-8.

(2) The artificially dwarfed plants must be grown in accordance with the following requirements and the phytosanitary certificate required by this paragraph must contain declarations that those requirements have been met:

(i) The artificially dwarfed plants must be grown for at least 2 years in a greenhouse or screenhouse in a nursery registered with the government of the country where the plants were grown;

(ii) The greenhouse or screenhouse in which the artificially dwarfed plants are grown must have screening with openings of not more than 1.6 mm on all vents and openings, and all entryways must be equipped with automatic closing doors;

(iii) The artificially dwarfed plants must be grown in pots containing only sterile growing media during the 2-year period when they are grown in a greenhouse or screenhouse in a registered nursery;

(iv) The artificially dwarfed plants must be grown on benches at least 50 cm above the ground during the 2-year period when they are grown in a greenhouse or screenhouse in a registered nursery; and

(v) The plants and the greenhouse or screenhouse and nursery where they are grown must be inspected for any evidence of pests and found free of pests of quarantine significance to the United States at least once every 12 months by the plant protection service of the country where the plants are grown.

(r) Any restricted article of *Pelargonium* spp. or *Solanum* spp. presented for importation into the United States may not be imported unless it meets the requirements of this paragraph (r). Seeds are not subject to the requirements of this paragraph (r).

(1) Any restricted article of *Pelargonium* spp. or *Solanum* spp. imported from Canada under the provisions of the greenhouse-grown restricted plant program as described in §319.37-4(c) must be presented for importation at the port of first arrival in the United States with a certificate of inspection in the form of a label in accordance with §319.37-4(c)(1)(iv).

(2) (i) For any article of *Pelargonium* spp. or *Solanum* spp. that does not meet the requirements of paragraph (r)(1) of this section and is from a country where *Ralstonia solanacearum* race 3 biovar 2 is not known to occur, the phytosanitary certificate of inspection required by §319.37-4 must contain an additional declaration that states “*Ralstonia solanacearum* race 3 biovar 2 is not known to occur in the country or area of origin”; *Provided*, that this additional declaration is not required on the phytosanitary certificate of inspection accompanying articles of *Solanum* spp. from Canada that do not meet the requirements of paragraph (r)(1) of this section.

(ii) For any article of *Pelargonium* spp. or *Solanum* spp. that does not meet the requirements of paragraph (r)(1) of this section and is from an area that has been established as free of *Ralstonia solanacearum* race 3 biovar 2 in accordance with International Standards for Phytosanitary Measures Publication No. 4, “Requirements for the Establishment of Pest Free Areas,” which is incorporated by reference at §300.5 of this chapter, the phytosanitary certificate required by §319.37-4 must contain an additional declaration that states “This article is from an area that has been established as free of *Ralstonia solanacearum* race 3 biovar 2.”

(3) Any article of *Pelargonium* spp. or *Solanum* spp. that is from a country or area where *Ralstonia solanacearum* race 3 biovar 2 is known to occur must meet the following requirements:

(i) The national plant protection organization of the country in which the

articles are produced (the NPPO) must have entered into a bilateral workplan with APHIS. This bilateral workplan must set out conditions for monitoring the production of articles of *Pelargonium* spp. and *Solanum* spp., for enforcement of the requirements of this paragraph (r)(3), and for the establishment of a trust fund as provided for in paragraph (r)(3)(xv) of this section.

(ii) The production site where the articles of *Pelargonium* spp. and *Solanum* spp. intended for export to the United States are produced must be registered with and certified by both APHIS and the NPPO. As part of the certification process, production sites must be initially approved and thereafter visited at least once a year by APHIS and the NPPO to verify compliance with the requirements of this paragraph (r)(3).

(iii) The production site must conduct ongoing testing for *R. solanacearum* race 3 biovar 2. Only articles of *Pelargonium* spp. and *Solanum* spp. from a group of articles that has been tested according to an APHIS-approved testing protocol with negative results for the presence of *R. solanacearum* race 3 biovar 2 may be used in production and export. Records of the testing must be kept for two growing seasons and made available to representatives of APHIS and of the NPPO. All testing procedures must be approved by APHIS.

(iv) Each greenhouse on the production site must be constructed in a manner that ensures that runoff water from areas surrounding the greenhouses cannot enter the greenhouses. The greenhouses must be surrounded by a 1-meter buffer that is sloped so that water drains away from the greenhouses.

(v) Dicotyledonous weeds must be controlled both within each greenhouse on the production site and around it. The greenhouses on the production site and the 1-meter buffer surrounding them must be free of dicotyledonous weeds.

(vi) All equipment that comes in contact with articles of *Pelargonium* spp. or *Solanum* spp. within the production site must be adequately sanitized so that *R. solanacearum* race 3 biovar 2 cannot be transmitted between plants

or enter from outside the production site via the equipment.

(vii) Production site personnel must adequately sanitize their clothing and shoes and wash their hands before entering the production site to prevent the entry of *R. solanacearum* race 3 biovar 2 into the production site.

(viii) Growing media for articles of *Pelargonium* spp. and *Solanum* spp. must be free of *R. solanacearum* race 3 biovar 2. Growing media and containers for articles of *Pelargonium* spp. and *Solanum* spp. must not come in contact with growing media that could transmit *R. solanacearum* race 3 biovar 2 and must be grown in an APHIS-approved growing medium.

(ix) Water used in maintenance of the plants at the production site must be free of *R. solanacearum* race 3 biovar 2. The production site must either derive the water from an APHIS-approved source or treat the water with an APHIS-approved treatment before use.

(x) Growing media at the production site must not come in direct contact with any water source, such as an emitter or a hose end. If a drip irrigation system is used, backflow devices must be installed to prevent any *R. solanacearum* race 3 biovar 2 that may be present from spreading to the rest of the production site through the irrigation system. Ebb and flow irrigation may not be used.

(xi) Production site personnel must be educated regarding the various pathways through which *R. solanacearum* race 3 biovar 2 can be introduced into a production site and must be trained to recognize symptoms of *R. solanacearum* race 3 biovar 2 infection in articles of *Pelargonium* spp. or *Solanum* spp. in the production site.

(xii) Articles of *Pelargonium* spp. or *Solanum* spp. produced for export within an approved production site must be handled and packed in a manner adequate to prevent the introduction of *R. solanacearum* race 3 biovar 2. The articles must be labeled with information indicating the production site from which the articles originated.

(xiii) If *R. solanacearum* race 3 biovar 2 is found in the production site or in consignments from the production site, the production site will be ineligible to export articles of *Pelargonium* spp. or

Solanum spp. to the United States. A production site may be reinstated if a reinspection reveals that the production site is free of *R. solanacearum* race 3 biovar 2 and all problems in the production site have been addressed and corrected to the satisfaction of APHIS.

(xiv) The phytosanitary certificate of inspection required by §319.37-4 that accompanies these articles must contain an additional declaration that states "These articles have been produced in accordance with the requirements in 7 CFR 319.37-5(r)(3)."

(xv) The government of the country in which the articles are produced must enter into a trust fund agreement with APHIS before each growing season. The government of the country in which the articles are produced or its designated representative is required to pay in advance all estimated costs that APHIS expects to incur through its involvement in overseeing the execution of paragraph (r)(3) of this section. These costs will include administrative expenses incurred in conducting the services enumerated in paragraph (r)(3) of this section and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The government of the country in which the articles are produced or its designated representative is required to deposit a certified or cashier's check with APHIS for the amount of the costs estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the government of the country in which the articles are produced or its designated representative to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the services will be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the government of the country in which the articles are produced or its designated representative or held on account until needed.

(s) Any restricted article (except seeds) of *Pinus* spp. from Canada may be imported into the United States

only if it meets the following requirements, as well as all other applicable requirements of this subpart, to prevent the introduction of pine shoot beetle (*Tomicus piniperda*):

(1) *From noninfested Canadian Provinces to all areas of the United States.* Restricted articles that originated in and were moved only through Canadian Provinces that are not considered to be infested or partially infested with pine shoot beetle (*Tomicus piniperda*), as determined by the Canadian Food Inspection Agency (CFIA), may be imported into any area of the United States only if:

(i) The accompanying phytosanitary certificate of inspection specifies the Canadian Province where the restricted articles originated and, if applicable, the Province or Provinces they were moved through, if different from the Province of origin;

(ii) The U.S. destination (including county and State) of the restricted articles is plainly indicated on the restricted articles or, if applicable, on the outer covering, packaging, or container; and

(iii) If the restricted articles are to be moved through an area of the United States quarantined for pine shoot beetle, as provided in §301.50-3 of this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is 10 °C (50 °F) or higher, the restricted articles are shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by the pine shoot beetle.

(2) *From infested or partially infested Canadian Provinces to U.S. infested areas.* Restricted articles that originated in or were moved through a Canadian Province that is considered to be infested or partially infested with pine shoot beetle (*Tomicus piniperda*), as determined by the CFIA, and are destined for and will be moved only through areas in the United States quarantined for pine shoot beetle, as provided in §301.50-3 of this chapter, may be imported into the United States only if:

(i) The accompanying phytosanitary certificate of inspection specifies the Canadian Province where the articles originated and, if applicable, the Province or Provinces they were moved through, if different from the Province of origin; and

(ii) The U.S. destination (including county and State) of the restricted articles is plainly indicated on the restricted articles or, if applicable, on the outer covering, packaging, or container.

(3) *From infested or partially infested Canadian Provinces to or through U.S. noninfested areas.* Restricted articles that originated in or were moved through a Canadian Province that is considered to be infested or partially infested with pine shoot beetle (*Tomicus piniperda*), as determined by the CFIA, and are destined for or will be moved through an area in the United States that is not quarantined for pine shoot beetle, as provided in §301.50-3 of this chapter, may be imported into the United States only if:

(i) The accompanying phytosanitary certificate of inspection specifies the Canadian Province where the restricted articles originated and, if applicable, the Province or Provinces they were moved through, if different from the Province of origin. The treatment section of the phytosanitary certificate of inspection must indicate that the restricted articles have been treated with methyl bromide to kill the pine shoot beetle (*Tomicus piniperda*) in accordance with the applicable provisions of part 305 of this chapter; or alternatively, in lieu of methyl bromide treatment, the phytosanitary certificate of inspection must contain one of the following additional declarations:

(A) “These restricted articles were grown on a plantation that has a program to control or eradicate pine shoot beetle (*Tomicus piniperda*) and have been inspected and are considered to be free from pine shoot beetle (*Tomicus piniperda*)”; or

(B) “These restricted articles originated in an area where pine shoot beetle (*Tomicus piniperda*) is not considered to be present, as determined by the CFIA”; or

(C) “These restricted articles have been 100 percent inspected and found to

be free from pine shoot beetle (*Tomicus piniperda*)”; or

(D) “Based on inspection, the restricted articles are no greater than 36 inches high with a bole diameter at soil level of 1 inch or less.”

(ii) The U.S. destination (including county and State) of the restricted articles is plainly indicated on the articles or, if applicable, on the outer covering, packaging, or container.

(iii) If the restricted articles are to be moved through an area of the United States quarantined for pine shoot beetle, as provided in §301.50-3 of this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is 10 °C (50 °F) or higher, the restricted articles must be shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by pine shoot beetle.

(Approved by the Office of Management and Budget under control numbers 0579-0049, 0579-0176, 0579-0221, 0579-0246, and 0579-0257)

[45 FR 31585, May 13, 1980; 45 FR 35305, May 27, 1980, as amended at 45 FR 53450, Aug. 12, 1980; 45 FR 81531, Dec. 11, 1980; 48 FR 57466, Dec. 30, 1983; 57 FR 43148, 43149, Sept. 18, 1992; 59 FR 44610, Aug. 30, 1994; 60 FR 4530, Jan. 24, 1995; 60 FR 8924, Feb. 16, 1995; 61 FR 51210, Oct. 1, 1996; 64 FR 45866, Aug. 23, 1999; 67 FR 53731, Aug. 19, 2002; 68 FR 28119, May 23, 2003; 68 FR 37915, June 25, 2003; 68 FR 50045, Aug. 20, 2003; 69 FR 2490, Jan. 16, 2004; 69 FR 21946, Apr. 23, 2004; 69 FR 61586, Oct. 20, 2004; 70 FR 33324, June 7, 2005; 70 FR 41092, July 15, 2005; 70 FR 61361, Oct. 24, 2005; 70 FR 72068, Dec. 1, 2005]

§319.37-6 Specific treatment and other requirements.

(a) Seeds of *Hibiscus* spp. (hibiscus, rose mallow) and seeds of *Abelmoschus* spp. (okra), from any foreign country or locality, at the time of importation into the United States, shall be treated for possible infestation with *Pectinophora gossypiella* (Saunders) (pink bollworm) in accordance with the applicable provisions of part 305 of this chapter.

(b) Seeds of *Lathyrus* spp. (sweet pea, peavine); *Lens* spp. (lentil); and *Vicia* spp. (fava bean, vetch) from countries and localities other than those in

North America and Central America, at the time of importation into the United States, shall be treated for possible infestation with insects of the family Bruchidae in accordance with the applicable provisions of part 305 of this chapter.

(c) Bulbs of *Allium sativum* (garlic) from Algeria, Austria, Czechoslovakia, Egypt, France, Greece, Hungary, Iran, Israel, Italy, Morocco, Portugal, Republic of South Africa, Spain, Switzerland, Syria, Turkey, Union of Soviet Socialist Republics, Federal Republic of Germany (West), or Yugoslavia at the time of importation into the United States shall be treated for possible infestation with *Brachycerus* spp. and *Dyspessa ulula* (Bkh.) in accordance with the applicable provisions of part 305 of this chapter.

(d) Seeds of *Guizotia abyssinica* (niger seed) are allowed entry only if:

(1) They are treated in accordance with part 305 of this chapter at the time of arrival at the port of first arrival in the United States; or

(2) They are treated prior to shipment to the United States at a facility that is approved by APHIS⁸ and that operates in compliance with a written agreement between the treatment facility owner and the plant protection service of the exporting country, in which the treatment facility owner agrees to comply with the provisions of this section and allow inspectors and representatives of the plant protection service of the exporting country access to the treatment facility as necessary to monitor compliance with the regulations. Treatments must be certified in accordance with the conditions described in § 319.37-13(c).

(e) Seeds of all species of the plant family *Rutaceae* from Afghanistan, Andaman Islands, Argentina, Bangladesh, Brazil, Caroline Islands, Comoro Islands, Cote d'Ivoire, Fiji Islands, Gabon, Home Island in Cocos (Keeling) Islands, Hong Kong, India, Indonesia, Iran, Japan, Kampuchea, Korea, Madagascar, Malaysia, Mauritius, Mozambique, Myanmar, Nepal, Oman, Paki-

stan, Papua New Guinea, Paraguay, Peoples Republic of China, Philippines, Reunion Island, Rodriguez Islands, Ryukyu Islands, Saudi Arabia, Seychelles, Sri Lanka, Taiwan, Thailand, Thursday Island, United Arab Emirates, Uruguay, Vietnam, Yemen (Sanaa), and Zaire, at the time of arrival at the port of first arrival in the United States shall be treated for possible infection with citrus canker by being immersed in water at 125 °F (51.6 °C) or higher for 10 minutes, and then immersed for a period of at least 2 minutes in a solution containing 200 parts per million sodium hypochlorite at a pH of 6.0 to 7.5.

(f) Seeds of *Castanea* and *Quercus* from all countries except Canada and Mexico at the time of arrival at the port of first arrival in the United States shall be treated for possible infestation with *Curculio elephas* (Cyllenhal), *C. nucum* L., *Cydia* (*Laspeyresia*) *splendana* Hubner, *Pammene fusciana* L. (*Hemimene juliana* (Curtis)) and other insect pests of chestnut and acorn in accordance with the applicable provisions of part 305 of this chapter.

[45 FR 31585, May 13, 1980; 45 FR 35305, May 27, 1980, as amended at 45 FR 49504, July 25, 1980; 57 FR 43148, 43150, Sept. 18, 1992; 60 FR 62320, Dec. 6, 1995; 61 FR 51210, Oct. 1, 1996; 68 FR 50046, Aug. 20, 2003; 70 FR 33324, June 7, 2005; 70 FR 40879, July 15, 2005]

§ 319.37-7 Postentry quarantine.

(a) The following restricted articles, from the designated countries and localities, and any increase therefrom must be grown under postentry quarantine conditions specified in paragraphs (c) and (d) of this section, and may be imported or offered for importation into the United States only:

(1) If destined for a State that has completed a State postentry quarantine agreement in accordance with paragraph (c) of this section;

(2) If a postentry quarantine growing agreement has been completed and submitted to Plant Protection and Quarantine in accordance with paragraph (d) of this section. The agreement must be signed by the person (the importer) applying for a written permit for importation of the article in accordance with § 319.37-3; and,

⁸Criteria for the approval of niger seed treatment facilities are contained in the PPQ Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

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(3) If Plant Protection and Quarantine has determined that the completed postentry quarantine growing agreement fulfills the applicable requirements of this section and that services by State inspectors are available to monitor and enforce the postentry quarantine:

<i>Restricted Article (excluding seeds)</i>	<i>Foreign Country(ies) or Locality(ies) from which imported</i>
<i>Abelmoschus</i> spp. (okra).	All except Africa, Bangladesh, Brazil, Canada, India, Iraq, Papua New Guinea, Sri Lanka, and Trinidad and Tobago.
<i>Acacia</i> spp. (acacia)	All except Australia, Canada, and Oceania.
<i>Acer</i> spp. (maple)	All except Canada, Europe, and Japan.
<i>Actinidia</i> spp. (Chinese gooseberry, kiwi).	All except Australia, Canada, Japan, New Zealand, and Taiwan.
<i>Aesculus</i> spp. (horsechestnut).	All except Canada, Czech Republic, Germany, Romania, Slovakia, United Kingdom.
<i>Althaea</i> spp. (althaea, hollyhock).	All except Africa, Bangladesh, Canada, India, and Sri Lanka.
<i>Berberis</i> spp. (barberry) destined to any State except the eradication States listed in § 301.38–2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter).	All.
<i>Blighia sapida</i> (akee) ...	All except Canada, Cote d'Ivoire, and Nigeria.
<i>Bromeliaceae</i> (bromeliads) destined to Hawaii.	All.
<i>Brugmansia</i> spp.	All except Canada and Colombia.
<i>Cedrus</i> spp. (cedar)	All except Canada and Europe.
<i>Chaenomeles</i> spp. (flowering quince) meeting the conditions for importation in § 319.37–5(b).	Countries listed in § 319.37–5(b) except Canada.
<i>Chrysanthemum</i> spp. (chrysanthemum) meeting the conditions in § 319.37–5(c).	All except Argentina, Brazil, Canada, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.
<i>Crataegus monogyna</i> Jacq. (hawthorne, thorneapple, red haw).	Europe.
<i>Crocosmia</i> spp. (montebretia) (except bulbs) not meeting the conditions for importation in § 319.37–5(l).	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.

<i>Restricted Article (excluding seeds)</i>	<i>Foreign Country(ies) or Locality(ies) from which imported</i>
<i>Cydonia</i> spp. (quince) meeting the conditions for importation in § 319.37–5(b).	Countries listed in § 319.37–5(b) except Canada.
<i>Datura</i> spp.	All except Canada and India.
<i>Datura</i> spp. (woody species).	(See <i>Brugmansia</i> spp.)
<i>Dendranthema</i> spp. (chrysanthemum) meeting the conditions in § 319.37–5(c).	All except Argentina, Brazil, Canada, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude.
<i>Dianthus</i> spp. (carnation, sweet-william).	Great Britain, unless exempted from postentry quarantine conditions pursuant to § 319.37–5(d), and all other countries and localities except Canada.
<i>Eucalyptus</i> spp.	All except Canada, Europe, Sri Lanka, and Uruguay.
<i>Euonymus</i> spp. (euonymus).	All except Canada, Japan, and Europe.
<i>Fragaria</i> spp. (strawberry).	All except Australia, Austria, Canada, Czechoslovakia, France, Great Britain, Italy, Japan, Lebanon, The Netherlands, New Zealand, Northern Ireland, Republic of Ireland, Switzerland, and Union of Soviet Socialist Republics.
<i>Fraxinus</i> spp. (ash)	All except Canada and Europe.
Fruit and nut articles listed by common name in paragraph (b) of this section.	All except Canada.
<i>Gladiolus</i> spp. (gladiolus) (except bulbs) not meeting the condition for importation in § 319.37–5(l).	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.
<i>Hibiscus</i> spp. (kenaf, hibiscus, rose mallow).	All except Africa, Brazil, Canada, and India.
<i>Humulus</i> spp. (hops) ...	All.
<i>Hydrangea</i> spp. (hydrangea).	All except Canada and Japan.
<i>Jasminum</i> spp. (jasmine).	All except Canada, Belgium, Federal Republic of Germany, Great Britain, India, and the Philippines.
<i>Juniperus</i> spp. (juniper)	All except Canada and Europe.
<i>Larix</i> spp. (larch)	All except Canada, Japan, and Europe.
<i>Leucanthemella serotina</i> .	All except Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude.
<i>Ligustrum</i> spp. (privet)	All except Canada and Europe.

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Restricted Article (excluding seeds)	Foreign Country(ies) or Locality(ies) from which imported	Restricted Article (excluding seeds)	Foreign Country(ies) or Locality(ies) from which imported
<i>Mahoberberis</i> spp. destined to any State except the eradication States listed in § 301.38-2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38-1 of this chapter).	All.	<i>Pyrus</i> spp. (pear) meeting the conditions for importation in § 319.37-5(b).	Countries listed in § 319.37-5(b) except Canada.
<i>Mahonia</i> spp. (mahonia) destined to any State except the eradication States listed in § 301.38-2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38-1 of this chapter).	All.	<i>Quercus</i> spp. (oak)	All except Canada and Japan.
<i>Malus</i> spp. (apple, crabapple) meeting the conditions for importation in § 319.37-5(b).	Countries listed in § 319.37-5(b) except Canada.	<i>Ribes</i> spp.	All except Canada, Europe, and New Zealand.
<i>Mespilus germanica</i> (medlar).	Countries listed in § 319.37-5(b) except Canada.	<i>Rosa</i> spp. (rose)	All except Australia, Bulgaria, Canada, Italy, and New Zealand.
<i>Morus</i> spp. (mulberry)	All except Canada, India, Japan, Korea, People's Republic of China, Thailand, and the geographic area formerly known as the Union of Soviet Socialist Republics.	<i>Rubus</i> spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry).	All unless exempted from postentry quarantine conditions pursuant to § 319.37-5(e).
<i>Nipponanthemum nipponicum</i> .	All except Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude.	<i>Salix</i> spp. (willow)	All of Europe (except Belgium, Germany, Great Britain, and the Netherlands).
Nut and fruit articles (see fruit and nut articles).		<i>Sorbus</i> spp. (mountain ash).	All except Canada, Czechoslovakia, Denmark, and Federal Republic of Germany.
<i>Passiflora</i> spp. (passion fruit, granadilla).	All except Canada.	<i>Syringa</i> spp. (lilac)	The Netherlands, if the articles meet the conditions for importation in § 319.37-5(i), and all other places except Canada and Europe.
<i>Philadelphus</i> spp. (mock orange).	All except Canada and Europe.	<i>Ulmus</i> spp. (elm)	All except Canada and Europe.
<i>Picea</i> spp. (spruce)	All except Canada, Europe, Japan, and Siberia.	<i>Watsonia</i> spp. (bugle lily) (except bulbs) not meeting the conditions for importation in § 319.37-5(l).	All except Africa, Argentina, Brazil, Canada, France, Italy, Luxembourg, Malta, Mauritius, Portugal, Spain, and Uruguay.
<i>Pinus</i> spp. (pine) (2-or-3 leaved).	All except Canada, Europe, and Japan.		
<i>Populus</i> spp. (aspen, cottonwood, poplar).	All except Canada and Europe.		
<i>Prunus</i> spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) meeting the conditions for importation in § 319.37-5(b).	Countries listed in § 319.37-5(b) except Canada.		
<i>Pseudolarix</i> spp. (golden larch).	All except Canada, Japan, and Europe.		
<i>Pseudotsuga</i> spp. (Douglas fir).	All except Canada and Europe.		

(b) *Fruit and nut articles* (common names are listed after scientific names).

Achras—(Synonym for *Manilkara*)
Annona— custard apple, cherimoya, sweetsop, sugarapple, soursop, bullock's heart, alligator apple, suncoya, ilama, guanabana, pond apple
Anacardium— cashew
Artocarpus— breadfruit, jackfruit
Averrhoa— carambola
Carica— papaya, pawpaw
Carissa— natal plum
Ceratonia— St. Johnsbread
Chrysobalanus— coco plum
Chrysophyllum— starapple
Corylus— filbert, hazel, hazelnut, cobnut
Crataegus— hawthorne
Diospyros— persimmon, kaki, mabola
Durio— durian
Eriobotrya— loquat, Japanese medlar, Japanese plum
Euphoria— longan
Eugenia— roseapple, Malayapple, Curacaoapple
Feijoa— feijoa, pineapple guava (except from New Zealand if accompanied by a phytosanitary certificate of inspection in accordance with § 319.37-5(k))
Ficus— fig
Garcinia— mangosteen, gourka
Juglans— walnut, butternut, heartnut, regnut, buartnut
Lansium— langsat
Litchi— lychee, leechee

Macadamia— macadamia nut, queensland nut
Malpighia— Barbados cherry
Mammea— mammeapple, mamey
Mangifera— mango
Manilkara— sapodilla
Melicoccus— honeyberry, mamoncilla, spanish lime, genip
Nephelium— rambutan, pulasan
Olea— olive
Persea— avocado, alligator pear
Phyllanthus— otaheite-gooseberry
Pistacia— pistachio
Psidium— guava, guayala
Punica— pomegranate, granada
Pyronia— quince
Rhodomyrtus— hill gooseberry, rose myrtle
Spondias— yellow mombin, red mombin, hog plum
Syzygium— Malayapple, rose apple, java plum
Vaccinium— blueberry, cranberry
Ziziphus— jujube

(c) *State Postentry quarantine agreement.* (1) Articles required to undergo postentry quarantine in accordance with this section may only be imported if destined for postentry quarantine growing in a State which has entered into a written agreement with the Animal and Plant Health Inspection Service, signed by the Administrator or his or her designee and by the State Plant Regulatory Official. In accordance with the laws of individual States, inspection and other postentry quarantine services provided by a State may be subject to charges imposed by the State.

(i) The following States have entered into a postentry quarantine agreement in accordance with this paragraph: All U.S. States and Territories, except the District of Columbia, Guam, Hawaii, Kansas, and the Northern Mariana Islands.

(ii) [Reserved]

(2) In any such written agreement, the State shall agree to:

(i) Establish State regulations and requirements prior to the effective date of the agreement and enforce such regulations and requirements necessary to inspect sites and plants growing in postentry quarantine and to monitor and enforce compliance with postentry quarantine growing in accordance with this section;

(ii) Review pending permit applications for articles to be grown under postentry quarantine conditions in the State, upon request of Plant Protec-

tion and Quarantine, and report to the Postentry Quarantine Unit of Plant Protection and Quarantine whether the State would be able to provide inspection and monitoring services for the proposed postentry quarantine;

(iii) Provide the services of State inspectors to: inspect sites to be used for postentry quarantine; report to the Postentry Quarantine Unit of Plant Protection and Quarantine whether the site is of adequate size to contain the number of plants proposed for importation, including potential increase if increase is allowed; inspect plants for evidence of exotic pests at least once during the first year and once during the second year for plants required to be grown in postentry quarantine for 2 years, and at least once for plants required to be grown in quarantine for less than 2 years; and monitor and enforce compliance with the requirements of this section during the use of the sites for postentry quarantine;

(iv) Report to the Postentry Quarantine Unit of Plant Protection and Quarantine any evidence of plant pests that are not known to exist in the United States and that are found at a postentry quarantine site by State inspectors; recommend to Plant Protection and Quarantine safeguards or mitigation measures to control the pests; and supervise the application of safeguards or mitigation measures approved by Plant Protection and Quarantine; and

(v) Report to the Postentry Quarantine Unit of Plant Protection and Quarantine any propagation or increase in the number of plants that occurs during postentry quarantine.

(3) In any such written agreement, the Administrator shall agree to:

(i) Seek State review of permit applications for postentry quarantine material in that State, and issue permits only after determining that State services are available to monitor the postentry quarantine;

(ii) Upon request of the State, provide training, technical advice, and pest identification services to State officials involved in providing postentry quarantine services in accordance with this section;

(iii) Notify State officials, in writing and within ten days of the arrival,

when plant material destined for postentry quarantine in their State arrives in the United States, and notify State officials in writing when materials in postentry quarantine may be released from quarantine in their State.

(4) *Termination of State postentry quarantine agreement.* A State postentry quarantine agreement may be terminated by either the Administrator or the State Plant Regulatory Official by giving written notice of termination to the other party. The effective date of the termination will be 60 days after the date of actual receipt of notice, with regard to future importation to that State of articles requiring postentry quarantine in accordance with this section. When a postentry quarantine agreement is terminated by either the State Plant Regulatory Official or the Administrator, APHIS and the affected State shall continue to provide postentry quarantine services in accordance with the postentry quarantine agreement, until the time the plant material is eligible to be released from quarantine, for all postentry quarantine material already in the State, and for all postentry quarantine material that arrives in the State prior to the effective date of termination.

(d) *Postentry quarantine growing agreements.* Any restricted article required to be grown under postentry quarantine conditions, as well as any increase therefrom, shall be grown in accordance with a postentry quarantine growing agreement signed by the person (the importer) applying for a written permit in accordance with §319.37-3 for importation of the article and submitted to Plant Protection and Quarantine. On each postentry quarantine growing agreement, APHIS shall also obtain the signature of the State Plant Regulatory Official for the State in which regulated articles covered by the agreement will be grown. The postentry quarantine growing agreement shall specify the kind, number, and origin of plants to be imported, and shall certify to APHIS and to the State in which the articles are grown that the signer of the agreement will comply with the following conditions for the period of time specified below:

(1) To grow such article or increase therefrom only on specified premises owned, rented, or otherwise in possession of the importer, within a space of dimensions designated by an inspector, and to move, propagate, or allow propagation of the article or increase therefrom or parts thereof only with the written permission of the coordinator, Postentry Quarantine Unit, USDA, APHIS, PPQ, Building 580, BARC-East, Beltsville, MD 20705;

(2) To permit an inspector to have access to the specified premises for inspection of such article during regular business hours;

(3) To keep the article and any increase therefrom identified with a label showing the name of the article, port accession number, and date of importation;

(4) To keep the article separated from any other plant or plant product by no less than 3 meters (approximately 10 feet) unless such other plant or plant product is of the same genus as the article, entered postentry quarantine with the article, and arrived together with the article in a single shipment from a foreign region;

(5) To allow or apply remedial measures (including destruction) determined by an inspector to be necessary to prevent the spread of an injurious plant disease, injurious insect pest, or other plant pest;

(6) To notify an inspector, orally or in writing, within 30 days of the time the importer or the person in charge of the growing site finds any abnormality of the article, or the article dies or is killed by the importer, the person in charge of the growing site, or any other person; to retain the abnormal or dead article for at least 60 days following that date of notification; and to give the abnormal or dead article to an inspector upon request;

(7) To grow the article or increase therefrom in postentry quarantine for a period of 2 years unless specified otherwise in the following:

(i) To grow the article or increase therefrom, if an article of *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry) from Europe, only in a screenhouse with screening of a minimum of 16 mesh per inch.

(ii) To grow the article or increase therefrom, if an article of *Chrysanthemum* spp., *Dendranthema* spp., *Leucanthemella* *serotina*, *Nipponanthemum* *nipponicum*, or *Dianthus* spp. (carnation, sweet-william), only in a greenhouse or other enclosed building, and to comply with the above conditions for a period of 6 months after importation for an article of *Chrysanthemum* spp., *Dendranthema* spp., *Leucanthemella* *serotina*, *Nipponanthemum* *nipponicum*, and for a period of 1 year after importation for an article of *Dianthus* spp. (carnation, sweet-william).

(iii) To grow the article or increase therefrom, if an article of *Humulus* spp. (hops), a meristem culture of the imported plant will be observed for 6 months, and the original plant will be destroyed after the meristem culture is established. After the 6-month observation, the meristem culture-generated plant must remain in postentry quarantine for an additional year.

(e) A completed postentry quarantine agreement shall accompany the application for a written permit for an article required to be grown under postentry quarantine conditions.⁹

(f) *Inspector-ordered disposal, movement, or safeguarding of restricted articles; costs and charges, civil and criminal liabilities*—(1) *Growing at unauthorized sites*. If an inspector determines that any article subject to the postentry quarantine growing requirements of this section, or any increase therefrom, is being grown at an unauthorized site, the inspector may file an emergency action notification (PPQ form 523) with the owner of the article or the person who owns or is in possession of the site on which the article is being grown. The person named in the form 523 must, within the time specified in form 523, sign a postentry quarantine growing agreement, destroy, ship to a point outside the United States, move to an

authorized postentry quarantine site, and/or apply treatments or other safeguards to the article, the increase therefrom, or any portion of the article or the increase therefrom, as prescribed by an inspector to prevent the introduction of plant pests into the United States. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the plant pest(s) associated with the kind of article (including increase therefrom), the types of other host materials for the pest in or near the growing site, the climate and season at the site in relation to the pest's survival, and the availability of treatment facilities.

(2) *Growing at authorized sites*. If an inspector determines that any article, or any increase therefrom, grown at a site specified in an authorized postentry quarantine growing agreement is being grown contrary to the provisions of this section, including in numbers greater than the number approved by the postentry quarantine growing agreement, or in a manner that otherwise presents a risk of introducing plant pests into the United States, the inspector shall issue an emergency action notification (PPQ form 523) to the person who signed the postentry quarantine growing agreement. That person shall be responsible for carrying out all actions specified in the emergency action notification. The emergency action notification may extend the time for which the articles and the increase therefrom must be grown under the postentry quarantine conditions specified in the authorized postentry quarantine growing agreement, or may require that the person named in the notification must destroy, ship to a point outside the United States, or apply treatments or other safeguards to the article, the increase therefrom, or any portion of the article or the increase therefrom, within the time specified in the emergency action notification. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the plant pest(s) associated with the kind of article (including increase therefrom), the types of other

⁹Postentry quarantine agreement forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236, or local offices of the Plant Protection and Quarantine Programs which are listed in telephone directories.

host materials for the pest in or near the growing site, the climate and season at the site in relation to the pest's survival, and the availability of treatment facilities.

(3) *Costs and charges.* All costs pursuant to any action ordered by an inspector in accordance with this section shall be borne by the person who signed the postentry quarantine growing agreement covering the site where the articles were grown, or if no such agreement was signed, by the owner of the articles at the growing site.

(4) *Civil and criminal liabilities.* Any person who moves an article subject to postentry quarantine growing requirements from the site specified for that article in an authorized postentry quarantine growing agreement, or who otherwise handles such an article contrary to the requirements of this section, shall be subject to such civil penalties and such criminal liabilities as are provided by 18 U.S.C. 1001, 7 U.S.C. 7734, or other applicable Federal statutes.

(g) *State.* As used in this section, "State" means each of the 50 States of the United States, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

(Approved by the Office of Management and Budget under control number 0579-0049)

[45 FR 31585, May 13, 1980; 45 FR 35305, May 27, 1980, as amended at 45 FR 81531, Dec. 11, 1980; 48 FR 57466, Dec. 30, 1983; 57 FR 43148, 43150, Sept. 18, 1992; 58 FR 38267, July 16, 1993; 58 FR 41124, Aug. 2, 1993; 59 FR 67610, Dec. 30, 1994; 61 FR 51210, Oct. 1, 1996; 66 FR 21056, Apr. 27, 2001; 68 FR 50046, Aug. 20, 2003; 70 FR 33324, June 7, 2005]

§ 319.37-8 Growing media.

(a) Any restricted article at the time of importation or offer for importation into the United States shall be free of sand, soil, earth, and other growing media, except as provided in paragraph (b), (c), (d) or (e) of this section.

(b) A restricted article from Canada, other than from Newfoundland or from that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West

Saanich Road, may be imported in any growing medium.

(c) A restricted article growing solely in agar or in other transparent or translucent tissue culture medium may be imported established in such growing media.

(d) Epiphytic plants (including orchid plants) established solely on tree fern slabs, coconut husks, or coconut fiber may be imported on such growing media.

(e) A restricted article of any of the following groups of plants may be imported established in an approved growing medium listed in this paragraph if the restricted article meets the conditions of this paragraph and is accompanied by a phytosanitary certificate issued by the plant protection service of the country in which the restricted article was grown that declares that the restricted article meets the conditions of this paragraph:

Alstroemeria

*Ananas*¹⁰

Anthurium

Artificially dwarfed (penjing) plants from the People's Republic of China of the following plant species: *Buxus sinica*, *Ehretia microphylla*, *Podocarpus macrophyllus*, *Sageretia thea*, and *Serissa foetida*.

Begonia

Gloxinia (= *Sinningia*)

*Nidularium*¹¹

Peperomia

Phalaenopsis spp. from Taiwan

Polypodiophyta (= *Filicales*) (ferns)

Rhipsalidopsis spp. from the Netherlands and Denmark

Rhododendron from Europe

Saintpaulia

Schlumbergera spp. from the Netherlands and Denmark.

(1) Approved growing media are baked expanded clay pellets, coal cinder, coir, cork, glass wool, organic and inorganic fibers, peat, perlite, phenol formaldehyde, plastic particles, polyethylene, polymer stabilized starch, polystyrene, polyurethane, rock wool, sphagnum moss, ureaformaldehyde, stockosorb superabsorbent polymer, vermiculite, volcanic rock, or zeolite, or any combination of these media.

¹⁰ These articles are bromeliads, and if imported into Hawaii, bromeliads are subject to postentry quarantine in accordance with § 319.7-7.

¹¹ See footnote 10.

Growing media must not have been previously used.

(2) Articles imported under this paragraph must be grown in compliance with a written agreement for enforcement of this section signed by the plant protection service of the country where grown and Plant Protection and Quarantine, must be developed from mother stock that was inspected and found free from evidence of disease and pests by an APHIS inspector or foreign plant protection service inspector no more than 60 days prior to the time the article is established in the greenhouse (except for articles developed from seeds germinated in the greenhouse), and must be:

(i) Grown in compliance with a written agreement between the grower and the plant protection service of the country where the article is grown, in which the grower agrees to comply with the provisions of this section and to allow inspectors, and representatives of the plant protection service of the country where the article is grown, access to the growing facility as necessary to monitor compliance with the provisions of this section;

(ii) Grown solely in a greenhouse in which sanitary procedures adequate to exclude plant pests and diseases are always employed, including cleaning and disinfection of floors, benches and tools, and the application of measures to protect against any injurious plant diseases, injurious insect pests, and other plant pests. The greenhouse must be free from sand and soil and must have screening with openings of not more than 0.6 mm (0.2 mm for greenhouses growing *Rhododendron* spp.) on all vents and openings except entryways. All entryways must be equipped with automatic closing doors;

(iii) Rooted and grown in an active state of foliar growth for at least four consecutive months immediately prior to importation into the United States, in a greenhouse unit that is used solely for articles grown in compliance with this paragraph;

(iv) Grown from seeds germinated in the greenhouse unit; or descended from a mother plant that was grown for at least 9 months in the exporting country prior to importation into the United States of the descendent plants,

provided that if the mother plant was imported into the exporting country from another country, it must be:

(A) Grown for at least 12 months in the exporting country prior to importation of the descendent plants into the United States, or

(B) Treated at the time of importation into the exporting country with a treatment prescribed for pests of that plant by the plant protection service of the exporting country and then grown for at least 9 months in the exporting country prior to importation of the descendent plants into the United States;

(v) Watered only with rainwater that has been boiled or pasteurized, with clean well water, or with potable water;

(vi) Rooted and grown in approved growing media listed in §319.37-8(e)(1) on benches supported by legs and raised at least 46 cm above the floor;

(vii) Stored and packaged only in areas free of sand, soil, earth, and plant pests;

(viii) Inspected in the greenhouse and found free from evidence of plant pests and diseases by an APHIS inspector or an inspector of the plant protection service of the exporting country, no more than 30 days prior to the date of export to the United States;

(ix) For *Rhododendron* species only, the plants must be propagated from mother plants that have been visually inspected by an APHIS inspector or an inspector of the plant protection service of the exporting country and found free of evidence of diseases caused by the following pathogens: *Chrysomyxa ledi* var. *rhododendri*, *Erysiphe cruciferarum*, *Erysiphe rhododendri*, *Exobasidium vaccinum* and *vaccinum* var. *japonicum*, and *Phomopsis theae*;

(x) For *Rhododendron* species only, the plants must be grown solely in a greenhouse equipped with automatic closing double doors of an airlock type, so that whenever one of the doors in an entryway is open the other is closed, and the plants must be introduced into the greenhouse as tissue cultures or as rootless stem cuttings from mother plants that:

(A) Have received a pesticide dip prescribed by the plant protection service of the exporting country for mites, scale insects, and whitefly; and

(B) Have been grown for at least the previous 6 months in a greenhouse that meets the requirements of § 319.37-8(e)(2)(ii); and

(xi) Plants of the species *Buxus sinica*, *Ehretia microphylla*, *Podocarpus macrophyllus*, *Sageretia thea*, and *Serissa foetida* from the People's Republic of China must also meet the following conditions:

(A) *Propagative cuttings*. The propagative materials used to produce the artificially dwarfed (penjing) plants may enter an approved greenhouse only as seeds, tissue cultures, unrooted cuttings, or rooted cuttings with no growing media. Rooted cuttings may not be established or grown in soil at any time. Rooted cuttings may be established in a greenhouse or outside the greenhouse on raised benches (46 cm in height) in pots containing only APHIS approved growing media.

(B) *Inspection and treatment*. When any cuttings are introduced into the greenhouse, they must be free of growing media, inspected, and found free of plant pests and then treated with a pesticide dip approved by the Animal and Plant Quarantine Service of the People's Republic of China that will control mites, scale insects, whiteflies, thrips, and fungi. The artificially dwarfed (penjing) plants must be propagated from mother plants that have been visually inspected by an APHIS inspector or an inspector of the Animal and Plant Quarantine Service of the People's Republic of China and found free of the following pests:

(1) For *Buxus sinica*: *Guignardia miribelii*, *Macrophoma ehretiae*, *Meliola buxicola*, and *Puccinia buxi*.

(2) For *Ehretia microphylla*: *Macrophoma ehretiae*, *Phakopsora ehretiae*, *Pseudocercospora ehretiae*, *Pseudocercospora ehretiae-thyrsoflora*, *Uncinula ehretiae*, *Uredo ehretiae*, and *Uredo garanbiensis*.

(3) For *Podocarpus macrophyllus*: *Pestalotia jinggangensis*, *Pestalotia diospyri*, *Phellinus noxius*, and *Sphaerella podocarpi*.

(4) For *Sageretia thea*: *Aecidium sageretiae*.

(5) For *Serissa foetida*: *Melampsora serissicola*.

(C) *Growing*. The artificially dwarfed (penjing) plants must be grown in an

approved greenhouse for at least 6 months immediately prior to export.

(D) *Additional treatments*. While in the greenhouse, plants must be treated with appropriate pesticides at least once every 10 days or as needed for three months before shipping to maintain a pest-free condition.

(f) A restricted article of *Hyacinthus* spp. (hyacinth) may be imported established in unused peat, sphagnum moss, or vermiculite growing media, or in synthetic growing media or synthetic horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, or ureaformaldehyde:

(1) If there is a written agreement between Plant Protection and Quarantine and the plant protection service of the country where the article is grown in which the plant protection service of the country where the article is grown agrees to implement a program in compliance with the provisions of this section;

(2) If there is a written agreement between the grower of the article and the plant protection service of the country in which the article is grown wherein the grower agrees to comply with the provisions of this section, wherein the grower agrees to allow an inspector access to the growing facility as necessary to monitor compliance with the provisions of this section, and wherein the grower agrees to allow representatives of the plant protection service of the country in which the article is grown access to the growing facility as necessary to make determinations concerning compliance with the provisions of this section;

(3) If: (i) Inspected immediately prior to the growing period by the plant protection service of the country in which the article is to be grown and found to be free of injurious plant diseases, injurious insect pests, and other plant pests;

(ii) Grown throughout its growing period only in a coldroom (with temperatures not exceeding 9 °C. (48 °F.)) within an enclosed building;

(iii) Grown only in a coldroom unit solely used for articles grown under all the criteria specified in this paragraph (f);

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(iv) Grown only in unused peat, sphagnum moss, or vermiculite growing media; or grown only in synthetic growing media or synthetic horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, ureaformaldehyde;

(v) Watered only with clean rainwater that has been pasteurized, with clean well water, or with potable water;

(vi) Grown in a coldroom free of sand, soil, or earth;

(vii) Grown only in a coldroom where strict sanitary procedures are always practiced, i.e., cleaning and disinfection of floors and tools and the application of measures to protect against any injurious plant diseases, injurious insect pests, and other plant pests; and

(viii) Stored only in areas found free of sand, soil, earth, injurious plant diseases, injurious insect pests, and other plant pests;

(4) If appropriate measures have been taken to assure that the article is to be stored, packaged, and shipped free of injurious plant diseases, injurious insect pests, and other plant pests;

(5) If accompanied by a phytosanitary certificate of inspection containing an accurate additional declaration from the plant protection service of the country in which grown that the article meets conditions of growing, storing, and shipping in compliance with 7 CFR 319.37-8(f); and

(6) If the accompanying phytosanitary certificate of inspection is endorsed by a Plant Protection and Quarantine inspector in the country of origin or at the time of offer for importation, representing a finding based on monitoring inspections that the conditions listed above are being met.

(g) *Pest risk evaluation standards for plants established in growing media.* The Animal and Plant Health Inspection Service will conduct a pest risk assessment based on pest risk analysis guidelines established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization in response to each request to allow the importation of additional taxa of plants in growing media. These guidelines are available upon re-

quest by writing to USDA, APHIS, PPQ, Center for Plant Health Science and Technology, Plant Epidemiology and Risk Assessment Laboratory, 1017 Main Campus Drive, Suite 2500, Raleigh, NC 27606.

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[45 FR 31585, May 13, 1980, and 47 FR 3087, Jan. 22, 1982, as amended at 57 FR 43151, Sept. 18, 1992; 60 FR 3077, Jan. 13, 1995; 61 FR 51210, Oct. 1, 1996; 64 FR 66716, Nov. 30, 1999; 68 FR 50047, Aug. 20, 2003; 68 FR 60617, Oct. 23, 2003; 69 FR 2490, Jan. 16, 2004; 69 FR 24936, May 5, 2004; 70 FR 33324, June 7, 2005; 71 FR 16198, Mar. 31, 2006]

§319.37-9 Approved packing material.

Any restricted article at the time of importation or offer for importation into the United States shall not be packed in a packing material unless the plants were packed in the packing material immediately prior to shipment; such packing material is free from sand, soil, or earth (except for sand designated below); has not been used previously as packing material or otherwise; and is listed below:

Baked or expanded clay pellets.
Buckwheat hulls.

Coral sand from Bermuda, if the article packed in such sand is accompanied by a phytosanitary certificate of inspection containing an accurate additional declaration from the plant protection service of Bermuda that such sand was free from soil.

Excelsior.

Exfoliated vermiculite.

Ground cork.

Ground peat.

Ground rubber.

Paper.

Perlite.

Polymer stabilized cellulose.

Quarry gravel.

Rock wool.

Sawdust.

Shavings—wood or cork.

Sphagnum moss.

Stockosorb superabsorbent polymer

Vegetable fiber when free of pulp, including coconut fiber and Osmunda fiber, but excluding sugarcane fiber and cotton fiber.

Volcanic rock.

[45 FR 31585, May 13, 1980, as amended at 57 FR 43151, Sept. 18, 1992; 60 FR 3078, Jan. 13, 1995; 68 FR 50047, Aug. 20, 2003]

§319.37-10 Marking and identity.

(a) Any restricted article for importation other than by mail, at the time

of importation or offer for importation into the United States shall plainly and correctly bear on the outer container (if in a container) or the restricted article (if not in a container) the following information:

- (1) General nature and quantity of the contents,
- (2) Country and locality where grown,
- (3) Name and address of shipper, owner, or person shipping or forwarding the article,
- (4) Name and address of consignee,
- (5) Identifying shipper's mark and number, and
- (6) Number of written permit authorizing the importation if one was issued.

(b) Any restricted article for importation by mail shall be plainly and correctly addressed and mailed to the Plant Protection and Quarantine Programs at a port of entry listed in § 319.37-14, shall be accompanied by a separate sheet of paper within the package plainly and correctly bearing the name, address, and telephone number of the intended recipient, and shall plainly and correctly bear on the outer container the following information:

- (1) General nature and quantity of the contents,
- (2) Country and locality where grown,
- (3) Name and address of shipper, owner, or person shipping or forwarding the article, and
- (4) Number of written permit authorizing the importation, if one was issued.

(c) Any restricted article for importation (by mail or otherwise), at the time of importation or offer for importation into the United States shall be accompanied by an invoice or packing list indicating the contents of the shipment.

(Approved by the Office of Management and Budget under control number 0579-0049)

[45 FR 31585, May 13, 1980, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.37-11 Arrival notification.

Promptly upon arrival of any restricted article at a port of entry, the importer shall notify the Plant Protection and Quarantine Programs of the arrival by such means as a manifest, Customs entry document, commercial

invoice, waybill, a broker's document, or a notice form provided for that purpose.

(Approved by the Office of Management and Budget under control number 0579-0049)

[45 FR 31585, May 13, 1980, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.37-12 Prohibited articles accompanying restricted articles.

A restricted article for importation into the United States shall not be packed in the same container as an article prohibited importation into the United States by this part or part 321.

§ 319.37-13 Treatment and costs and charges for inspection and treatment; treatments applied outside the United States.

(a) The services of a Plant Protection and Quarantine inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.¹¹ No charge will be made to the importer for Government owned or controlled special inspection facilities and equipment used in treatment, but the inspector may require the importer to furnish any special labor, chemicals, packing materials, or other supplies required in handling an importation under the regulations in this subpart. The Plant Protection and Quarantine Programs will not be responsible for any costs or charges, other than those indicated in this section.

(b) Any treatment performed in the United States on a restricted article shall be performed by an inspector or under an inspector's supervision at a government-operated special inspection facility, except that an importer may have such treatment performed at a nongovernmental facility if the treatment is performed at nongovernment expense under the supervision of an inspector and in accordance with any applicable treatment requirements of this subpart and in accordance with any treatment required by an inspector as an emergency measure in order to prevent the dissemination of any injurious plant disease, injurious insect

¹¹Provisions relating to costs for other services of an inspector are contained in part 354.

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pest, or other plant pest, new to or not theretofore known to be widely prevalent or distributed within and throughout the United States. However, treatment may be performed at a non-governmental facility only in cases of unavailability of government facilities and only if, in the judgment of an inspector, such article can be transported to such nongovernmental facility without the risk of introduction into the United States of injurious plant diseases, injurious insect pests, or other plant pests.

(c) Any treatment performed outside the United States must be monitored and certified by an APHIS inspector or an official from the plant protection service of the exporting country. If monitored and certified by an official of the plant protection service of the exporting country, then a phytosanitary certificate must be issued with the following declaration: "The consignment of (*fill in botanical name*) has been treated in accordance with the Plant Protection and Quarantine Treatment Manual." During the entire interval between treatment and export, the consignment must be stored and handled in a manner that prevents any infestation by pests and Federal noxious weeds.

[45 FR 31585, May 13, 1980, as amended at 57 FR 43148, 43151, Sept. 18, 1992; 60 FR 3077, Jan. 13, 1995; 61 FR 51210, Oct. 1, 1996; 68 FR 50047, Aug. 20, 2003; 70 FR 33324, June 7, 2005]

§ 319.37-14 Ports of entry.

(a) Any restricted article required to be imported under a written permit pursuant to § 319.37-3(a) (1) through (6) of this subpart, shall be imported or offered for importation only at a port of entry designated by an asterisk in paragraph (b) of this section; any other restricted article shall be imported or offered for importation at any port of entry listed in paragraph (b) of this section.

(b) Any restricted article from Canada not required to be imported under a written permit pursuant to § 319.37-3(a) (1) through (6) of this subpart may be imported at any port of entry listed in this paragraph, or at any Customs designated port of entry on the United States-Canada border (Customs des-

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ignated ports of entry are listed in 19 CFR part 101).

LIST OF PORTS OF ENTRY

Ports with special inspection and treatment facilities (plant inspection stations) are indicated by an asterisk (*).

ALABAMA

Mobile

Federal Building, room 147, 113 St. Joseph Street, P.O. Box 1413, Mobile, AL 36601.

ALASKA

Anchorage

Annex P.O. Box 6191, International Airport, Anchorage, AK 99502.

ARIZONA

** Nogales*

Federal Inspection Station, Nogales, AZ 85621.

Phoenix

Sky Harbor Airport, 3300 Sky Harbor Boulevard, Phoenix, AZ 85034.

San Luis

U.S. Border Station, P.O. Box 37, San Luis, AZ 85349.

Tucson

Tucson International Airport, Tucson, AZ 85706.

CALIFORNIA

Calexico

Federal Inspection Building, room 223, 200 First Street, P.O. Box 686, Calexico, CA 92231.

** Los Angeles*

9650 LaCienega Boulevard, Building D North, Inglewood, CA 90301.

(Airport)

World Way Center Post Office, International Arrivals Area, Satellite 2, P.O. Box 90429, Los Angeles International Airport, Los Angeles, CA 90009.

** San Diego*

U.S. Border Station, P.O. Box 43L, San Ysidro, CA 92073.

** San Francisco*

Plant Inspection Station, San Francisco International Airport, San Francisco, CA 94128.

Animal and Plant Health Inspection Service, USDA**§ 319.37-14**

San Francisco International Airport, P.O. Box 8026, Airport Station, San Francisco, CA 94128.

101 Agriculture Building, Embarcadero at Mission Street, P.O. Box 7673, San Francisco, CA 94120.

**San Pedro*

(See Los Angeles)

Travis AFB

P.O. Box 1448, Travis Air Force Base, Fairfield, CA 94535.

COLORADO

Denver

Suite 102, 7100 West 44th Avenue, Wheat Ridge, CO 80033.

CONNECTICUT

Wallingford

Federal Building, room 205, P.O. Box 631, Wallingford, CT 06492.

DELAWARE

Dover AFB

Building 500 (USDA), Dover Air Force Base, DE 19901.

Wilmington

Federal Building, room 1218A, 844 King Street, Box 03, Wilmington, DE 19801.

DISTRICT OF COLUMBIA

Dulles International Airport

(See Virginia)

FLORIDA

Cape Canaveral

120 George King Boulevard, P.O. Box 158, Cape Canaveral, FL 32920.

Jacksonville

Federal Building, room 521, 400 West Bay Street, P.O. Box 35003, Jacksonville, FL 32202.

Key West

Federal Building, room 226, 301 Simonton Street, P.O. Box 1486, Key West, FL 33040.

**Miami*

Miami Inspection Station, 3500 NW. 62nd Avenue, P.O. Box 59-2136, Miami, FL 33159.

FAA & NWS Building, Box 59-2647 AMF, Miami, FL 33159.

Amman Building, room 305, 611 Eisenhower Boulevard, P.O. Box 13033, Fort Lauderdale, FL 33316. (NOTE: Restricted articles required to be imported under a written

permit pursuant to §319.37-3(a)(1) through (6) of this subpart must be moved by ground transportation and under U.S. Customs bond to the Miami Inspection Station.)

**Orlando*

Orlando Plant Inspection Station, 9317 Tradeport Drive, Orlando, FL 32827.

Pensacola

Federal Building, room 105, 100 North Palafax Street, P.O. Box 12561, Pensacola, FL 32573.

Tampa

700 Twiggs Street, room 504, P.O. Box 266, Tampa, FL 33601.

West Palm Beach

158 Port Road, P.O. Box 10611, Riviera Beach, FL 33404.

(Airport)

Palm Beach International Airport, Port of Entry Building, West Palm Beach, FL 33406.

GEORGIA

**Atlanta*

Hartsfield Atlanta International Airport, Atlanta, GA 30320.

Savannah

U.S. Court House & Federal Building, room B-9, 125-126 Bull Street, P.O. Box 9268, Savannah, GA 31402.

GUAM

**Agana*

Guam International Airport, Tamuning, GU 96931.

HAWAII

Hilo

General Lyman Field, Hilo, HI 96720.

**Honolulu (Airport)*

Honolulu International Airport, International Arrivals Building, Ewa end, Ground Level, P.O. Box 29757, Honolulu, HI 96820.

Wailuku, Maui

Federal Post Office Building, room 211, Wailuku, HI 96793.

ILLINOIS

Chicago

U.S. Custom House, room 800, 610 South Canal Street, Chicago, IL 60607.

§ 319.37–14

(Airport)

O'Hare International Arrivals Building, P.O. Box 66192, Chicago, IL 60666.

LOUISIANA

Baton Rouge

750 Florida Boulevard, room 321, Federal Building, P.O. Box 2447, Baton Rouge, LA 70821.

**New Orleans*

New Orleans International Airport, P.O. Box 20037, Airport Mailing Facility, New Orleans, LA 70140.

F. Edward Hébert Building, P.O. Box 2220, New Orleans, LA 70176.

MAINE

Bangor (Airport)

International Arrivals Building, Bangor International Airport, Bangor, ME 04401.

Portland

U.S. Courthouse, 156 Federal Street, room 309, Portland, ME 04101.

MARYLAND

Baltimore

Appraisers Stores Building, room 506, 103 South Gay Street, Baltimore, MD 21202.

(Airport)

Foreign Arrivals Building, Baltimore Washington International Airport, Baltimore, MD 21240.

Beltsville

Plant Germplasm Quarantine Center (for USDA shipments only), Building 320, Beltsville, Agricultural Research Center East, Beltsville, MD 20705.

MASSACHUSETTS

Boston

Room 4, U.S. Custom House, Boston, MA 02109.

(Airport)

Logan International Airport, East Boston, MA 02128.

MICHIGAN

Detroit

International Terminal, room 228, Metropolitan Airport, Detroit, MI 48242.

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MINNESOTA

Duluth

Board of Trade Building, room 420, 301 West First Street, Duluth, MN 55802.

St. Paul

Minneapolis-St. Paul International Airport, International Charter Terminal, P.O. Box 1690, St. Paul, MN 55111.

MISSOURI

Kansas City (Airport)

Kansas City International Airport, P.O. Box 20085, Kansas City, MO 64195.

St. Louis International Airport

P.O. Box 858, St. Charles, MO 63301.

NEW JERSEY

**Hoboken*

209 River Street, Hoboken, NJ 07030.

McGuire AFB

Building 1706, Passenger Terminal, Customs Area, P.O. Box 16073, McGuire Air Force Base, NJ 08641.

NEW YORK

Albany

80 Wolf Road, Suite 503, Albany, NY 12205.

Buffalo

Federal Building, room 1113, 111 West Huron Street, Buffalo, NY 14202.

New York

26 Federal Plaza, room 1747, New York, NY 10007.

**Jamaica*

John F. Kennedy International Airport, Plant Inspection Station, Cargo Building 80, Jamaica, NY 11430.

International Arrivals Building, room 2315, John F. Kennedy International Airport.

Rouses Point

St. John's Highway Border Station, room 118, Route 9B, P.O. Box 278, Rouses Point, NY 12979.

NORTH CAROLINA

Morehead City

Room 216, 113 Arendell, P.O. Box 272, Morehead City, NC 28557.

Wilmington

Rural Route 6, Box 53D, Wilmington, NC 28405.

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OHIO	TEXAS
<i>Cleveland</i>	<i>*Brownsville</i>
Federal Building, room 1749, 1240 East 9th Street, Cleveland, OH 44199.	Border Services Building, room 224 (Gateway Bridge), East Elizabeth and International Boulevard, P.O. Box 306, Brownsville, TX 78520.
OREGON	
<i>Astoria</i>	<i>Corpus Christi</i>
Port Docks, P.O. Box 354, Astoria, OR 97103.	807 Petroleum Tower, 811 Carancahua Street, P.O. Box 245, Corpus Christi, TX 78403.
<i>Coos Bay</i>	<i>Dallas-Fort Worth (Airport)</i>
U.S. Postal Services Building, 235 West Anderson Street, P.O. Box 454, Coos Bay, OR 97420.	Dallas-Fort Worth Airport, P.O. Box 61063, Dallas-Ft. Worth Airport, TX 75261.
<i>Portland</i>	<i>Del Rio</i>
Federal Building, room 657, 511 NW. Broadway, Portland, OR 97209.	U.S. Border Inspection Station, room 135, International Bridge, P.O. Box 1227, Del Rio, TX 78840.
PENNSYLVANIA	<i>Eagle Pass</i>
<i>Philadelphia</i>	U.S. Border Station, 160 Garrison Street, P.O. Box P, Eagle Pass, TX 78852.
Custom House, room 1004, 2nd and Chestnut Streets, Philadelphia, PA 19106.	<i>El Paso</i>
PUERTO RICO	Cordova Border Station, room 172-A, 3600 East Paisano, El Paso, TX 79905.
<i>Mayaguez</i>	<i>Galveston</i>
P.O. Box 3269, Marina Station, Mayaguez, PR 00708.	Room 402, U.S. Post Office Building, 601 Rosenberg Street, P.O. Box 266, Galveston, TX 77553.
<i>Ponce</i>	<i>Hidalgo</i>
P.O. Box 68, Ponce Playa Station, Ponce, PR 00731.	U.S. Border Station, Bridge Street, P.O. Drawer R, Hidalgo, TX 78557.
<i>Hato Rey</i>	<i>*Houston</i>
Federal Office Building & U.S. Court House, room 206, Hato Rey, PR 00918.	(Airport) Houston Plant Inspection Station, 3016 McKaughan, Houston, TX 77032.
<i>Roosevelt Roads</i>	U.S. Appraisers Stores Building, room 210 7300 Wingate Street, Houston, TX 77011.
Roosevelt Roads Naval Station, P.O. Box 3008, Air Operations, FPO Miami, FL 34051.	<i>Laredo</i>
<i>*San Juan</i>	La Posada Motel, rooms L8-13, 1000 Zaragoza Street, P.O. Box 277, Laredo, TX 78040.
Isla Verde International Airport, Foreign Arrivals Wing, San Juan, PR 00904.	Juarez-Lincoln International Bridge, 101 Santa Ursela, Laredo, TX 78040.
RHODE ISLAND	U.S. International Bridge No. 1, 100 Convent Avenue, Laredo, TX 78040.
<i>Warwick</i>	<i>Port Arthur</i>
48 Quaker Lane, West Warwick, RI 02893.	Federal Building, room 201, Fifth Street & Austin Avenue, P.O. Box 1227, Port Arthur, TX 77640.
SOUTH CAROLINA	<i>Presidio</i>
<i>Charleston</i>	U.S. Border Station, International Bridge, P.O. Box 1001, Presidio, TX 79845.
Room 513 Federal Building, P.O. Box 941, Charleston, SC 29402.	<i>Progreso</i>
TENNESSEE	Custom House Building, Progreso International Bridge, Progreso, TX 78579.
<i>Memphis</i>	
Room 801 Mid Memphis Tower, 1407 Union Avenue, Memphis, TN 38104.	

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Roma

International Bridge, P.O. Box 185, Roma, TX 78584.

San Antonio

International Satellite, room 15-S, 9700 Airport Boulevard, San Antonio, TX 78216.

VIRGIN ISLANDS OF THE UNITED STATES

St. Thomas

Room 227, Federal Building, P.O. Box 8119, St. Thomas, Virgin Islands of the U.S. 00801.

(Airport)

Harry S. Truman Airport, Main Terminal Building, St. Thomas, Virgin Islands of the U.S. 00801.

St. Croix

Drawer 1548, Kingshill, St. Croix, Virgin Islands of the U.S. 00850.

VIRGINIA

Chantilly (Airport)

Dulles International Airport, International Arrivals Area, P.O. Box 17134, Washington, DC 20041.

Newport News

P.O. Box 942, Newport News, VA 23607.

Norfolk

Federal Building, room 311, 200 Granby Mall, Norfolk, VA 23510.

WASHINGTON

Blaine

Custom House, room 216, P.O. Drawer C, Blaine, WA 98230.

McChord AFB

MAC Terminal, P.O. Box 4116, McChord Air Force Base, Tacoma, WA 98438.

**Seattle*

Federal Office Building, room 9014, 909 First Avenue, Seattle, WA 98174.

(Airport)

Seattle-Tacoma International Airport, Seattle, WA 98158.

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WISCONSIN

Milwaukee

International Arrivals Terminal, General Mitchell Field, 5300 South Howell Avenue, Milwaukee, WI 53207.

[45 FR 31585, May 13, 1980, as amended at 54 FR 34133, Aug. 18, 1989; 57 FR 47978, Oct. 21, 1992; 59 FR 21622, Apr. 26, 1994; 61 FR 51210, Oct. 1, 1996; 68 FR 50048, Aug. 20, 2003; 68 FR 70423, Dec. 18, 2003; 69 FR 5673, Feb. 5, 2004]

Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles

SOURCE: 60 FR 27674, May 25, 1995, unless otherwise noted.

§ 319.40-1 Definitions.

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

APHIS. The Animal and Plant Health Inspection Service, United States Department of Agriculture.

Bark chips. Bark fragments broken or shredded from log or branch surfaces.

Certificate. A certificate of inspection relating to a regulated article, which is issued by an official authorized by the national government of the country in which the regulated article was produced or grown, which contains a description of the regulated article, which certifies that the regulated article has been inspected, is believed to be free of plant pests, and is believed to be eligible for importation pursuant to the laws and regulations of the United States, and which may contain any specific additional declarations required under this subpart.

Compliance agreement. A written agreement between APHIS and a person engaged in processing, handling, or moving regulated articles, in which the person agrees to comply with requirements contained in the agreement.

Departmental permit. A document issued by the Administrator authorizing the importation of a regulated article for experimental, scientific, or educational purposes.

Fines. Small particles or fragments of wood, slightly larger than sawdust,

that result from chipping, sawing, or processing wood.

Free from rot. No more than two percent by weight of the regulated articles in a lot show visual evidence of fructification of fungi or growth of other microorganisms that cause decay and the breakdown of cell walls in the regulated articles.

General permit. A written authorization contained in § 319.40-3 for any person to import the articles named by the general permit, in accordance with the requirements specified by the general permit, without being issued a specific permit.

Humus, compost, and litter. Partially or wholly decayed plant matter.

Import (imported, importation). To bring or move into the territorial limits of the United States.

Importer document. A written declaration signed by the importer of regulated articles, which must accompany the regulated articles at the time of importation, in which the importer accurately declares information about the regulated articles required to be disclosed by § 319.40-2(b).

Inspector. Any individual authorized by the Administrator to enforce this subpart.

Log. The bole of a tree; trimmed timber that has not been sawn further than to form cants.

Loose wood packing material. Excelsior (wood wool), sawdust, and wood shavings, produced as a result of sawing or shaving wood into small, slender, and curved pieces.

Lot. All the regulated articles on a single means of conveyance that are derived from the same species of tree and were subjected to the same treatments prior to importation, and that are consigned to the same person.

Lumber. Logs that have been sawn into boards, planks, or structural members such as beams.

Permit. A specific permit to import a regulated article issued in accordance with § 319.40-4, or a general permit promulgated in § 319.40-3.

Plant pest. Any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts of parasitic plants, noxious weeds, viruses, or

any organism similar to or allied with any of the foregoing, or any infectious substances, which can injure or cause disease or damage in any plants, parts of plants, or any products of plants.

Port of first arrival. The area (such as a seaport, airport, or land border station) where a person or a means of conveyance first arrives in the United States, and where inspection of regulated articles is carried out by inspectors.

Primary processing. Any of the following processes: cleaning (removal of soil, limbs, and foliage), debarking, rough sawing (bucking or squaring), rough shaping, spraying with fungicide or insecticide sprays, and fumigation.

Regulated article. The following articles, if they are unprocessed or have received only primary processing: logs; lumber; any whole tree; any cut tree or any portion of a tree, not solely consisting of leaves, flowers, fruits, buds, or seeds; bark; cork; laths; hog fuel; sawdust; painted raw wood products; excelsior (wood wool); wood chips; wood mulch; wood shavings; pickets; stakes; shingles; solid wood packing materials; humus; compost; and litter.

Regulated wood packaging material. Wood packaging material other than manufactured wood materials, loose wood packing materials, and wood pieces less than 6 mm thick in any dimension, that are used or for use with cargo to prevent damage, including, but not limited to, dunnage, crating, pallets, packing blocks, drums, cases, and skids.

Sealed container; sealable container. A completely enclosed container designed for the storage or transportation of cargo, and constructed of metal or fiberglass, or other rigid material, providing an enclosure which prevents the entrance or exit of plant pests and is accessed through doors that can be closed and secured with a lock or seal. Sealed (sealable) containers are distinct and separable from the means of conveyance carrying them.

Specific permit. A written document issued by APHIS to the applicant in accordance with § 319.40-4 that authorizes importation of articles in accordance with this subpart and specifies or refers to the regulations applicable to the particular importation.

Statement of origin and movement. A signed, accurate statement certifying the area or areas where the regulated articles originated and, if applicable, the area or areas they were moved through prior to importation. The statement may be printed directly on the documentation accompanying the shipment of regulated articles, or it may be provided on a separate document. The statement does not require the signature of a public officer of a national plant protection organization; exporters may sign the document.

Tropical hardwoods. Hardwood timber species which grow only in tropical climates.

United States. All of the States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

Wood chips. Wood fragments broken or shredded from any wood.

Wood mulch. Bark chips, wood chips, wood shavings, or sawdust intended for use as a protective or decorative ground cover.

Wood packaging material. Wood or wood products (excluding paper products) used in supporting, protecting or carrying a commodity (includes dunnage).

[60 FR 27674, May 25, 1995, as amended at 63 FR 50110, Sept. 18, 1998; 63 FR 69542, Dec. 17, 1998; 65 FR 21127, Apr. 20, 2000; 69 FR 55732, Sept. 16, 2004; 69 FR 61587, Oct. 20, 2004; 70 FR 33324, June 7, 2005]

§ 319.40-2 General prohibitions and restrictions; relation to other regulations.

(a) *Permit required.* Except for regulated articles exempted from this requirement by paragraph (c) of this section or § 319.40-3, no regulated article may be imported unless a specific permit has been issued for importation of the regulated article in accordance with § 319.40-4, and unless the regulated article meets all other applicable requirements of this subpart and any requirements specified by APHIS in the specific permit.

(b) *Importer document; documentation of type, quantity, and origin of regulated articles.* Except for regulated articles

exempted from this requirement by paragraph (c) of this section or § 319.40-3, no regulated article may be imported unless it is accompanied by an importer document stating the following information. A certificate that contains this information may be used in lieu of an importer document at the option of the importer:

(1) The genus and species of the tree from which the regulated article was derived;

(2) The country, and locality if known, where the tree from which the regulated article was derived was harvested;

(3) The quantity of the regulated article to be imported;

(4) The use for which the regulated article is imported; and

(5) Any treatments or handling of the regulated article required by this subpart that were performed prior to arrival at the port of first arrival.

(c) *Regulation of articles imported for propagation or human consumption.* The requirements of this subpart do not apply to regulated articles that are allowed importation in accordance with § 319.19, "Subpart—Citrus Canker and Other Citrus Diseases", or §§ 319.37 through 319.37-14, "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products"; or to regulated articles imported for human consumption that are allowed importation in accordance with §§ 319.56 through 319.56-8, "Subpart—Fruits and Vegetables."

(d) *Regulated articles imported for experimental, scientific or educational purposes.* Any regulated article may be imported without further restriction under this subpart if:

(1) Imported by the United States Department of Agriculture for experimental, scientific, or educational purposes;

(2) Imported pursuant to a Departmental permit issued by APHIS for the regulated article prior to its importation and kept on file at the port of first arrival; and

(3) Imported under conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the introduction into the United States of plant pests.

(e) *Designation of additional regulated articles.* An inspector may designate any article as a regulated article by giving written notice of the designation to the owner or person in possession or control of the article. APHIS will implement rulemaking to add articles designated as regulated articles to the definition of regulated article in § 319.40-1 if importation of the article appears to present a recurring significant risk of introducing plant pests. Inspectors may designate an article as a regulated article after determining that:

(1) The article was imported in the same container or hold as a regulated article;

(2) Other articles of the same type imported from the same country have been found to carry plant pests; or

(3) The article appears to be contaminated with regulated articles or soil.

(f) In addition to meeting the requirements of this subpart, bark and bark products and logs and pulpwood with bark attached, as well as cut trees (e.g., Christmas trees), imported from Canada are subject to the inspection and certification requirements for gypsy moth in § 319.77-4 of this part.

(Approved by the Office of Management and Budget under control number 0579-0049)

[60 FR 27674, May 25, 1995, as amended at 63 FR 13485, Mar. 20, 1998; 64 FR 45866, Aug. 23, 1999; 69 FR 52418, Aug. 26, 2004; 69 FR 61587, Oct. 20, 2004; 71 FR 40878, July 19, 2006]

§ 319.40-3 General permits; articles that may be imported without a specific permit; articles that may be imported without either a specific permit or an importer document.

(a) *Canada and Mexico.* (1) The following articles may be imported into the United States under general permit:

(i) From Canada: Regulated articles, other than the following:

(A) Regulated articles of the subfamilies Aurantioideae, Rutoideae, and Toddalioidae of the botanical family Rutaceae, and;

(B) Regulated articles of pine (*Pinus* spp.) that are not completely free of bark from Provinces in Canada that are considered to be infested or partially infested with pine shoot beetle (*Tomicus pinniperda*), as determined by

the Canadian Food Inspection Agency, and that are moving to a United States facility operating under a compliance agreement for specified handling or processing under the provisions of § 319.40-8.

(ii) From States in Mexico adjacent to the United States: Commercial and noncommercial shipments of mesquite wood for cooking; commercial and noncommercial shipments of unmanufactured wood for firewood; and small, noncommercial packages of unmanufactured wood for personal cooking or personal medicinal purposes.

(2) Commercial shipments allowed in paragraph (a)(1) of this section are subject to the inspection and other requirements in § 319.40-9 and must be accompanied by an importer document stating that they are derived from trees harvested in Canada or States in Mexico adjacent to the United States border.

(3) Noncommercial shipments allowed in paragraph (a)(1) of this section are subject to inspection and other requirements of § 319.40-9 and must be accompanied by an importer document or oral declaration stating that they are derived from trees harvested in Canada or States in Mexico adjacent to the United States border.

(b) *Regulated wood packaging material.* Regulated wood packaging material, whether in actual use as packing for regulated or nonregulated articles or imported as cargo, may be imported into the United States under a general permit in accordance with the following conditions:

(1) *Treatment.* The wood packaging material must have been:

(i) Heat treated to achieve a minimum wood core temperature of 56 °C for a minimum of 30 minutes. Such treatment may employ kiln-drying, chemical pressure impregnation, or other treatments that achieve this specification through the use of steam, hot water, or dry heat; or,

(ii) Fumigated with methyl bromide in an enclosed area for at least 16 hours at the following dosage, stated in terms of grams of methyl bromide per cubic meter or pounds per 1,000 cubic feet of the enclosure being fumigated.

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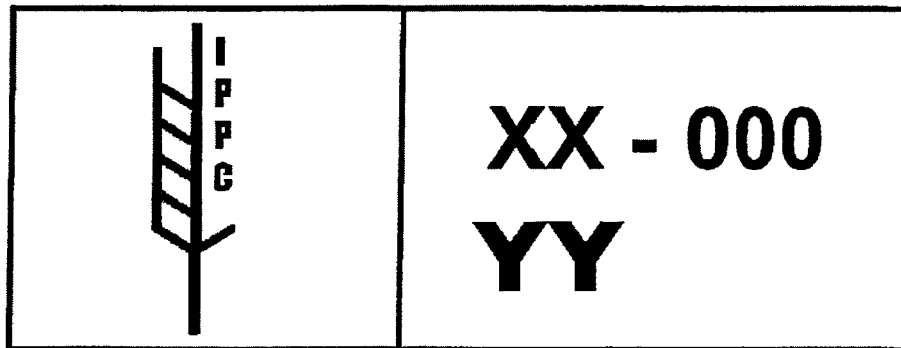
Following fumigation, fumigated products must be aerated to reduce the concentration of fumigant below haz-

ardous levels, in accordance with label instructions approved by the U.S. Environmental Protection Agency:

Temperature (°C/ °F)	Initial dose g/m ³ and lbs./ 1,000 c.f.)	Minimum required concentration g/m ³ and lbs./1,000 c.f.) after:			
		0.5 hrs	2 hrs.	4 hrs.	16 hrs.
21/70 or above	48/3.0	36/2.25	24/1.5	17/1.06	14/0.875
16/61 or above	56/3.5	42/2.63	28/1.75	20/1.25	17/1.06
11/52 or above	64/4.0	48/3.0	32/2.0	22/1.38	19/1.19

(2) *Marking.* The wood packaging material must be marked in a visible location on each article, preferably on at least two opposite sides of the article, with a legible and permanent mark that indicates that the article meets the requirements of this paragraph. The mark must be approved by the International Plant Protection Convention in its International Standards for Phytosanitary Measures to certify that wood packaging material has been subjected to an approved measure, and must include a unique graphic symbol,

the ISO two-letter country code for the country that produced the wood packaging material, a unique number assigned by the national plant protection agency of that country to the producer of the wood packaging material, and an abbreviation disclosing the type of treatment (e.g., HT for heat treatment or MB for methyl bromide fumigation). The currently approved format for the mark is as follows, where XX would be replaced by the country code, 000 by the producer number, and YY by the treatment type (HT or MB):



(3) *Immediate reexport of regulated wood packaging material without required mark.* An inspector at the port of first arrival may order the immediate reexport of regulated wood packaging material that is imported without the mark required by paragraph (b)(2) of this section, in addition to or in lieu of any port of first arrival procedures required by § 319.40-9 of this part.

(4) *Exception for Department of Defense.* Regulated wood packaging material used by the Department of Defense

(DOD) of the U.S. Government to package nonregulated articles, including commercial shipments pursuant to a DOD contract, may be imported into the United States without the mark required by paragraph (b)(2) of this section.

(Approved by the Office of Management and Budget under control numbers 0579-0049 and 0579-0225.)

(c) *Loose wood packing materials.* APHIS hereby issues a general permit to import regulated articles authorized

by this paragraph. Loose wood packing materials (whether in use as packing or imported as cargo) that are dry may be imported subject to the inspection and other requirements in § 319.40-9 and without further restriction under this subpart.

(d) *Bamboo timber.* APHIS hereby issues a general permit to import regulated articles authorized by this paragraph. Bamboo timber which is free of leaves and seeds and has been sawn or split lengthwise and dried may be imported subject to the inspection and other requirements in § 319.40-9 and without further restriction under this subpart.

(e) *Regulated articles the permit process has determined to present no plant pest risk.* Regulated articles for which a specific permit has been issued in accordance with § 319.40-4(b)(2)(i) may be imported without other restriction under this subpart, except that they are subject to the inspection and other requirements in § 319.40-9.

(Approved by the Office of Management and Budget under control numbers 0579-0049 and 0579-0257)

[60 FR 27674, May 25, 1995, as amended at 63 FR 50110, Sept. 18, 1998; 63 FR 69542, Dec. 17, 1998; 69 FR 52418, Aug. 26, 2004; 69 FR 55732, Sept. 16, 2004; 69 FR 61587, Oct. 20, 2004; 71 FR 57386, Sept. 29, 2006]

§ 319.40-4 Application for a permit to import regulated articles; issuance and withdrawal of permits.

(a) *Application procedure.* A written application for a permit¹ must be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations Permit Unit, 4700 River Road Unit 136, Riverdale, MD 20737-1236. The completed application must include the following information:

(1) The specific type of regulated article to be imported, including the genus and species name of the tree

from which the regulated article was derived;

(2) Country, and locality if known, where the tree from which the regulated article was derived was harvested;

(3) The quantity of the regulated article to be imported;

(4) A description of any processing, treatment or handling of the regulated article to be performed prior to importation, including the location where any processing or treatment was or will be performed and the names and dosage of any chemicals employed in treatments;

(5) A description of any processing, treatment, or handling of the regulated article intended to be performed following importation, including the location where any processing or treatment will be performed and the names and dosage of any chemicals employed in treatments;

(6) Whether the regulated article will or will not be imported in a sealed container or in a hold;

(7) The means of conveyance to be used to import the regulated article;

(8) The intended port of first arrival in the United States of the regulated article, and any subsequent ports in the United States at which regulated articles may be unloaded;

(9) The destination and general intended use of the regulated article;

(10) The name and address of the applicant and, if the applicant's address is not within the United States, the name and address of an agent in the United States whom the applicant names for acceptance of service of process; and

(11) A statement certifying the applicant as the importer of record.

(b) *Review of application and issuance of permit.* After receipt and review of the application, APHIS shall determine whether it appears that the regulated article at the time of importation will meet either the specific importation requirements in § 319.40-5 or the universal importation requirements in § 319.40-6.

(1) If it appears that the regulated article proposed for importation will meet the requirements of either § 319.40-5 or § 319.40-6, a permit stating

¹Application forms for permits are available without charge from the Administrator, c/o the Permit Unit, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 4700 River Road, Riverdale, MD 20737, or local offices of Plant Protection and Quarantine, which are listed in telephone directories.

the applicable conditions for importation under this subpart shall be issued for the importation of the regulated article identified in the application.

(2) If it appears that the regulated article proposed for importation will not meet the requirements of either § 319.40-5 or § 319.40-6 because these sections do not address the particular regulated article identified in the application, APHIS shall review the application by applying the plant pest risk assessment standards specified in § 319.40-11.

(i) If this review reveals that importation of the regulated article under a permit and subject to the inspection and other requirements in § 319.40-9, but without any further conditions, will not result in the introduction of plant pests into the United States, a permit for importation of the regulated article shall be issued. The permit may only be issued in unique and unforeseen circumstances when the importation of the regulated article is not expected to recur.

(ii) If this review reveals that the regulated article may be imported under conditions that would reduce the plant pest risk to an insignificant level, APHIS may implement rule-making to add the additional conditions to this subpart, and after the regulations are effective, may issue a permit for importation of the regulated article.

(3) No permit will be issued to an applicant who has had a permit withdrawn under paragraph (d) of this section during the 12 months prior to receipt of the permit application by APHIS, unless the withdrawn permit has been reinstated upon appeal.

(c) *Permit does not guarantee eligibility for import.* Even if a permit has been issued for the importation of a regulated article, the regulated article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of first arrival determines that no remedial measures are necessary pursuant to the Plant Protection Act with respect to the regulated article.²

² An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant

(d) *Denial and withdrawal of permits.* Any permit which has been issued may be withdrawn by an inspector or the Administrator if he or she determines that the person to whom the permit was issued has violated any requirement of this subpart. If the withdrawal is oral, the decision to withdraw the permit and the reasons for the withdrawal of the permit shall be confirmed in writing as promptly as circumstances permit. Any person whose permit has been denied or withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the permit was wrongfully denied or withdrawn. The Administrator shall grant or deny the appeal, in writing, stating the reasons for granting or denying the appeal as promptly as circumstances permit. If there is a conflict as to any material fact and the person from whom the permit is withdrawn requests a hearing, a hearing shall be held to resolve the conflict. Rules of practice concerning the hearing shall be adopted by the Administrator.

(Approved by the Office of Management and Budget under control number 0579-0049)

[60 FR 27674, May 25, 1995, as amended at 66 FR 21056, Apr. 27, 2001; 69 FR 52418, Aug. 26, 2004]

§ 319.40-5 Importation and entry requirements for specified articles.

(a) *Bamboo timber.* Bamboo timber consisting of whole culms or canes may be imported into Guam or the Northern Mariana Islands subject to inspection and other requirements of § 319.40-9. Bamboo timber consisting of whole culms or canes that are completely dry as evidenced by lack of moisture in node tissue may be imported into any part of the United States subject to inspection and other requirements of § 319.40-9.

(b) *Monterey pine logs and lumber from Chile and New Zealand; Douglas-fir logs and lumber from New Zealand—(1) Logs—*

(i) *Requirements prior to importation.*

pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

Monterey or Radiata pine (*Pinus radiata*) logs from Chile or New Zealand and Douglas-fir (*Pseudotsuga menziesii*) logs from New Zealand that are accompanied by a certificate stating that the logs meet the requirements of paragraph (b)(1)(i) (A) through (D) of this section, and that are consigned to a facility in the United States that operates in accordance with § 319.40-8, may be imported in accordance with paragraphs (b)(1)(i)(A) through (b)(1)(iii) of this section.

(A) The logs must be from live healthy trees which are apparently free of plant pests, plant pest damage, and decay organisms.

(B) The logs must be debarked in accordance with § 319.40-7(b) prior to fumigation.

(C) The logs and any regulated wood packaging material to be used with the logs during shipment to the United States must be fumigated in accordance with § 319.40-7(f)(1), within 45 days following the date the trees are felled and prior to arrival of the logs in the United States, in the holds or in sealable containers. Fumigation must be conducted in the same sealable container or hold in which the logs and regulated wood packaging material are exported to the United States.

(D) During shipment to the United States, no other regulated article is permitted on the means of conveyance with the logs, unless the logs and the other regulated articles are in separate holds or separate sealed containers, or, if the logs and other regulated articles are mixed in a hold or sealed container, the other regulated articles either have been heat treated with moisture reduction in accordance with § 319.40-7(d), or have been fumigated in the hold or sealable container in accordance with paragraph (b)(1)(i)(C) of this section.

(ii) *Requirements upon arrival in the United States.* The following requirements apply upon arrival of the logs in the United States.

(A) The logs must be kept segregated from other regulated articles from the time of discharge from the means of conveyance until the logs are completely processed at a facility in the United States that operates under a compliance agreement in accordance with § 319.40-8.

(B) The logs must be moved from the port of first arrival to the facility that operates under a compliance agreement in accordance with § 319.40-8 by as direct a route as reasonably possible.

(iii) *Requirements at the processing facility.* The logs must be consigned to a facility operating under a compliance agreement in accordance with § 319.40-8 that includes the following requirements:

(A) Logs or any products generated from logs, including lumber, must be heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d).

(B) The logs, including sawdust, wood chips, or other products generated from the logs in the United States, must be processed in accordance with paragraph (b)(1)(iii) of this section within 60 days from the time the logs are released from the port of first arrival.

(C) Sawdust, wood chips, and waste generated by sawing or processing the logs must be disposed of by burning, heat treatment in accordance with § 319.40-7(c), heat treatment with moisture reduction in accordance with § 319.40-7(d), or other processing that will destroy any plant pests associated with the sawdust, wood chips, and waste. Composting and use of the sawdust, wood chips, and waste as mulch are prohibited unless composting and use as mulch are preceded by fumigation in accordance with § 319.40-7(f)(3), heat treatment in accordance with § 319.40-7(c), or heat treatment with moisture reduction in accordance with § 319.40-7(d). Wood chips, sawdust, and waste may be moved in enclosed trucks for processing at another facility operating under a compliance agreement in accordance with § 319.40-8.

(2) *Raw lumber.* Raw lumber, including regulated wood packaging material imported as cargo, from Chile or New Zealand derived from Monterey or Radiata pine (*Pinus radiata*) logs and raw lumber from New Zealand derived from Douglas-fir (*Pseudotsuga menziesii*) logs may be imported in accordance with paragraphs (b)(2) (i) and (ii) of this section.

(i) During shipment to the United States, no other regulated article (other than regulated wood packaging

material) is permitted on the means of conveyance with the raw lumber, unless the raw lumber and the other regulated articles are in separate holds or separate sealed containers; *Except for* mixed shipments of logs and raw lumber fumigated in accordance with § 319.40-7(f)(2) and moved in accordance with paragraph (b)(1)(i)(D) of this section. Raw lumber on the vessel's deck must be in a sealed container.

(ii) The raw lumber must be consigned to a facility operating under a compliance agreement in accordance with § 319.40-8 that requires the raw lumber to be heat treated in accordance with § 319.40-7(c) or heat treated with moisture reduction in accordance with § 319.40-7(d) before any cutting, planing, or sawing of the raw lumber, and within 30 days from the time the lumber is released from the port of first arrival.

(c) *Tropical hardwoods*—(1) *Debarked*. Tropical hardwood logs and lumber that have been debarked in accordance with § 319.40-7(b) may be imported subject to the inspection and other requirements of § 319.40-9.

(2) *Not debarked*. Tropical hardwood logs that have not been debarked may be imported if fumigated in accordance with § 319.40-7(f)(1) prior to arrival in the United States.

(3) *Not debarked; small lots*. Tropical hardwood logs that have not been debarked may be imported into the United States, other than into Hawaii, Puerto Rico, or the Virgin Islands of the United States, if imported in a lot of 15 or fewer logs and subject to the inspection and other requirements of § 319.40-9.

(d) *Temperate hardwoods*. Temperate hardwood logs and lumber (with or without bark) from all places except places in Asia that are east of 60° East Longitude and north of the Tropic of Cancer may be imported if fumigated in accordance with § 319.40-7(f) prior to arrival in the United States and subject to the inspection and other requirements of § 319.40-9.

(e) *Regulated articles associated with exclusively tropical climate pests*. Regulated articles that have been identified by a plant pest risk assessment as associated solely with plant pests that can successfully become established only in

tropical or subtropical climates may be imported if:

(1) The regulated article is imported only to a destination in the continental United States; and,

(2) the regulated article is not imported into any tropical or subtropical areas of the United States specified in the permit.

(f) Cross-ties (railroad ties) from all places, except places in Asia that are east of 60° East Longitude and north of the Tropic of Cancer, may be imported if completely free of bark and accompanied by an importer document stating that the cross-ties will be pressure treated with a preservative within 30 days following the date of importation at a U.S. facility under compliance agreement. Cross-ties (railroad ties) may also be imported if heat treated in accordance with § 319.40-7(c).

(g) through (k) [Reserved]

(l) *Cross-ties (railroad ties) and pine and fir lumber from Mexican States adjacent to the United States/Mexico border*.³ Cross-ties (railroad ties) 8 inches or less at maximum thickness and lumber derived from pine and fir may be imported from Mexican States adjacent to the United States/Mexico border into the United States if they:

(1) Originate from Mexican States adjacent to the United States/Mexico border;

(2) Are 100 percent free of bark; and

(3) Are fumigated prior to arrival in the United States. The regulated article and the ambient air must be at a temperature of 5 °C or above throughout fumigation. The fumigation must be conducted using schedule T312 contained in the Treatment Manual. In lieu of the schedule T312 methyl bromide concentration, fumigation may be conducted with an initial methyl bromide concentration of at least 240 g/m³ with exposure and concentration levels adequate to provide a concentration-time product of at least 17,280 gram-hours calculated on the initial methyl bromide concentration.

(m) *Regulated articles of pine (Pinus spp.) that are not completely free of bark from Canada*—(1) *Cut pine Christmas*

³Cross-ties (railroad ties) may also be imported in accordance with paragraph (f) of this section, or may be imported if heat treated in accordance with § 319.40-7(c).

trees. Cut pine Christmas trees from Canada may be imported into the United States only if they meet the following requirements, as well as all other applicable requirements of this subpart:

(i) *From noninfested Canadian Provinces to all areas of the United States.* Cut pine Christmas trees that originated in and were moved only through Canadian Provinces that are not considered to be infested or partially infested with pine shoot beetle (*Tomicus piniperda*), as determined by the Canadian Food Inspection Agency (CFIA), may be imported into any area of the United States only if:

(A) They are accompanied by a statement of origin and movement that specifies the Canadian Province where the cut pine Christmas trees originated and, if applicable, the Province or Provinces they were moved through, if different from the Province of origin, and also states that the cut pine Christmas trees originated in and were moved only through areas of Canada not considered to be infested with pine shoot beetle, as determined by the CFIA;

(B) The U.S. destination (including county and State) is plainly indicated on the cut pine Christmas trees or on the outer covering or container; and

(C) If the cut pine Christmas trees are to be moved through an area of the United States quarantined for pine shoot beetle, as provided in § 301.50-3 of this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is 10 °C (50 °F) or higher, then the cut pine Christmas trees are shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by pine shoot beetle.

(ii) *From infested or partially infested Canadian Provinces to U.S. infested areas.* Cut pine Christmas trees that originated in or were moved through a Canadian Province that is considered to be infested or partially infested with pine shoot beetle (*Tomicus piniperda*), as determined by the CFIA, and are destined for and will be moved only through areas in the United States

that are quarantined for pine shoot beetle, as provided in § 301.50-3 of this chapter, may be imported into the United States only if:

(A) They are accompanied by a statement of origin and movement that specifies the Canadian Province where the cut pine Christmas trees originated and, if applicable, the Province or Provinces they were moved through, if different from the Province of origin, and also states that the cut pine Christmas trees originated in and were moved through one or more Canadian Provinces considered to be infested or partially infested with pine shoot beetle, as determined by the CFIA; and

(B) The U.S. destination (including county and State) is plainly indicated on the cut pine Christmas trees or on the outer covering or container.

(iii) *From infested or partially infested Canadian Provinces to or through U.S. noninfested areas.* Cut pine Christmas trees that originated in or were moved through a Canadian Province that is considered to be infested or partially infested with pine shoot beetle, as determined by the CFIA, and are destined for or will be moved through an area in the United States that is not quarantined for pine shoot beetle, as provided in § 301.50-3 of this chapter, may be imported into the United States only if:

(A) They are accompanied by a certificate that specifies the Canadian Province where the Christmas trees originated and, if applicable, the Province or Provinces they were moved through, if different from the Province of origin, and indicates in the treatment section of the certificate that the Christmas trees have been treated with methyl bromide to kill the pine shoot beetle; or, alternatively, in lieu of methyl bromide treatment, the certificate contains one of the following additional declarations:

(1) "These regulated articles were grown on a plantation that has a program to control or eradicate pine shoot beetle (*Tomicus piniperda*) and have been inspected and are considered to be free from pine shoot beetle (*Tomicus piniperda*)"; or

(2) "These regulated articles originated in an area where pine shoot beetle (*Tomicus piniperda*) is not considered

to be present, as determined by the CFIA"; or

(3) "These regulated articles have been 100 percent inspected and found to be free from pine shoot beetle (*Tomicus piniperda*)"; and

(B) The U.S. destination (including county and State) is plainly indicated on the Christmas trees or on the outer covering or container; and

(C) If the Christmas trees are to be moved through an area of the United States that is quarantined for pine shoot beetle, as provided in §301.50-3 of this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is higher than 10 °C (50 °F), the Christmas trees are shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by pine shoot beetle.

(2) *Other pine articles.* Regulated articles from Canada (other than cut pine Christmas trees) that consist of pine bark, including, but not limited to, chips, nuggets, mulch, and compost, as well as pine products with pine bark attached, including, but not limited to, logs, lumber, pulpwood, stumps, and raw pine materials for wreaths and garlands, may be imported into the United States only if they meet one of the following requirements, as well as all other applicable requirements of this subpart:

(i) *From Canadian noninfested Provinces to all areas of the United States.* Regulated articles that originated in and were moved only through Canadian Provinces that are not considered to be infested or partially infested with pine shoot beetle, as determined by the CFIA, may be imported into any area of the United States only if:

(A) They are accompanied by a statement of origin and movement that specifies the Province where the regulated articles originated and, if applicable, the Province or Provinces they were moved through, if different from the Province of origin, and also states that the regulated articles originated in and were only moved through Provinces of Canada not considered to be infested or partially infested with pine

shoot beetle, as determined by the CFIA;

(B) The U.S. destination (including county and State) is plainly indicated on the regulated articles or, if applicable, on the outer covering, packaging, or container; and

(C) If the regulated articles are to be moved through an area of the United States that is quarantined for pine shoot beetle, as provided in §301.50-3 of this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is higher than 10 °C (50 °F), the regulated articles are shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by pine shoot beetle.

(ii) *From Canadian infested Provinces or partially infested Provinces to U.S. infested areas.* Regulated articles that originated in or were moved through a Canadian infested or partially infested Province, as determined by the CFIA, and are destined for and will be moved only through areas in the United States that are quarantined for pine shoot beetle, as provided in §301.50-3 of this chapter, may be imported into the United States only if:

(A) They are accompanied by a statement of origin and movement that specifies the county or municipal regional county and Province where the articles originated, and if applicable, the counties or municipal regional counties and Provinces they were moved through, if different from the county or municipal regional county and Province of origin, and also states that the regulated articles originated in and were moved through one or more Provinces of Canada considered to be infested or partially infested with pine shoot beetle, as determined by the CFIA; and

(B) The U.S. destination (including county and State) is plainly indicated on the regulated articles or, if applicable, on the outer covering, packaging, or container.

(iii) *From noninfested areas in partially infested Canadian Provinces to or*

through U.S. noninfested areas. Regulated articles that originated in a noninfested area county or municipal regional county of a partially infested Canadian Province, as determined by the CFIA, and were moved through Canadian noninfested areas only, and are destined for or will be moved through any area in the United States that is not quarantined for pine shoot beetle, as provided in § 301.50-3 of this chapter, may only be imported into the United States if one of the following sets of conditions is met:

(A) The regulated articles are accompanied by a certificate that specifies the county or municipal regional county and Province where the regulated articles originated and, if applicable, the counties or municipal regional counties and Provinces they were moved through, if different from the county or municipal regional county and Province of origin. The certificate also must contain the following additional declaration: "These regulated articles originated in and were moved only through areas where pine shoot beetle (*Tomicus piniperda*) is not present, as determined by the CFIA." In addition, the U.S. destination (including county and State) must be plainly indicated on the regulated articles or, if applicable, on the outer covering, packaging, or container. If the regulated articles are to be moved through an area of the United States quarantined for pine shoot beetle, as provided in § 301.50-3 of this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is 10 °C (50 °F) or higher, the regulated articles must be shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by pine shoot beetle; or

(B) The regulated articles are assigned to a designated U.S. facility that operates under a compliance agreement with APHIS in accordance with § 319.40-8 for specified handling or processing of the articles. The name and address of the U.S. facility (including county and State) receiving the regulated articles must be plainly indicated on the articles or, if applicable,

on the outer covering, packaging, or container. If the regulated articles are to be moved through an area of the United States quarantined for pine shoot beetle, as provided in § 301.50-3 of this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is 10 °C (50 °F) or higher, then the regulated articles also must be shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by pine shoot beetle.

(iv) *From Canadian infested Provinces or infested areas of partially infested Provinces to or through U.S. noninfested areas.* (A) Regulated articles that originated in or were moved through either a Canadian Province considered to be infested with pine shoot beetle or an infested area within a partially infested Canadian Province, as determined by the CFIA, and that are destined for or will be moved through any area in the United States not quarantined for pine shoot beetle, as provided in § 301.50-3 of this chapter, may only be imported into the United States if one of the following sets of conditions provided is met:

(1) The regulated articles are accompanied by a certificate that specifies the county or municipal regional county and Province where the regulated articles originated and, if applicable, the counties or municipal regional counties and Provinces they were moved through, if different from the county or municipal regional county and Province of origin. The treatment section of the certificate must indicate that the regulated articles have been treated with methyl bromide to kill the pine shoot beetle in accordance with 7 CFR 319.40-7(f). In addition, the U.S. destination (including county and State) of the regulated articles must be plainly indicated on the regulated articles or, if applicable, on the outer covering, packaging, or container.

(2) The regulated articles consist of pine bark and are accompanied by a certificate that specifies both the county or municipal regional county and Province where the regulated articles originated and, if applicable, the

counties or municipal regional counties and Provinces they were moved through, if different from the county or municipal regional county and Province of origin. The additional declaration section must state, "The pine bark in this shipment has been ground into pieces less than or equal to 1 inch in diameter." In addition, the U.S. destination (including county and State) of the regulated articles must be plainly indicated on the regulated articles or, if applicable, on the outer covering, packaging, or container.

(3) The regulated articles are shipped from a CFIA-approved facility that processes only regulated articles that originated in areas in Canada or the United States not considered to be infested with pine shoot beetle. The facility must be inspected by the CFIA at least twice a year to verify its compliance with CFIA handling and processing procedures, and the CFIA must provide APHIS with a current list of approved facilities at least annually. The name and address (including the county or municipal regional county and Province) of the CFIA-approved facility that shipped the articles, as well as the U.S. destination (including county and State) must be plainly indicated on the regulated articles or, if applicable, on the outer covering, packaging, or container.

(4) The pine products are accompanied by a certificate that specifies the county or municipal regional county and Province where the regulated articles originated and, if applicable, the counties or municipal regional counties and Provinces they were moved through, if different from the county or municipal regional county and Province of origin. The treatment section of the certificate must indicate that the regulated articles have been treated in accordance with § 319.40-6. In addition, the U.S. destination (including county and State) of the regulated articles must be plainly indicated on the regulated articles or, if applicable, on the outer covering, package, or container.

(5) The regulated articles, consisting of logs with bark attached, are consigned to a U.S. facility that operates under a compliance agreement with APHIS in accordance with § 319.40-8 for

specified handling or processing of the regulated articles. The logs must be transported by as direct a route as reasonably possible and not off-loaded en route to the U.S. facility. The logs must be accompanied by a statement of origin and movement that specifies the county or municipal regional county and Province where the logs originated and, if applicable, the counties or municipal regional counties and Provinces they were moved through, if different from the county or municipal regional county and Province of origin. In addition, the name and address (including county and State) of the U.S. facility receiving the logs must be plainly indicated on the regulated articles or, if applicable, on the outer covering or container.

(6) The regulated articles, consisting of pine bark, are shipped from a CFIA-approved facility for use as a fuel at a cogeneration facility in the United States approved by APHIS. The pine bark must be transported by as direct a route as reasonably possible and not off-loaded en route to the U.S. cogeneration facility. The Canadian facility from which the pine bark is shipped must be inspected by the CFIA at least twice a year to verify that the facility is following handling and processing procedures that adequately safeguard the pine bark for shipment to the U.S. cogeneration facility. CFIA must provide APHIS with a current list of approved facilities at least annually. The name and address (including the county or municipal regional county and Province) of the CFIA-approved facility that shipped the pine bark, as well as the name and address of the U.S. cogeneration facility receiving the shipment (including county and State) must be plainly indicated on the outer covering, packaging, or container of the pine bark.

(B) If the regulated articles in paragraphs (i)(2)(iv)(1) through (5) of this section are to be moved through an area of the United States quarantined for pine shoot beetle, as provided in § 301.50-3 of this chapter, en route to an area or areas in the United States not quarantined for pine shoot beetle during the period of January through September when the temperature is higher than 10 °C (50 °F), the regulated articles

must be shipped in an enclosed vehicle or completely covered (such as with plastic canvas, or other closely woven cloth) so as to prevent access by pine shoot beetle.

(Approved by the Office of Management and Budget under control numbers 0579-0049, 0579-0135, and 0579-0257)

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§ 319.40-6 Universal importation options.

(a) *Logs.* Logs may be imported if prior to importation the logs have been debarked in accordance with § 319.40-7(b) and heat treated in accordance with § 319.40-7(c). During the entire interval between treatment and export, the logs must be stored and handled in a manner which excludes any access to the logs by plant pests.

(b) *Lumber—(1) Heat treated or heat treated with moisture reduction.* Lumber that prior to importation has been heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d), may be imported in accordance with paragraphs (b)(1) (i) and (ii) of this section.

(i) During shipment to the United States, no other regulated article (other than solid wood packing materials) is permitted on the means of conveyance with the lumber, unless the lumber and the other regulated articles are in separate holds or separate sealed containers, or, if the lumber and other regulated articles are mixed in a hold or sealed container, all the regulated articles have been heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d). Lumber on the vessel's deck must be in a sealed container, unless it has been heat treated with moisture reduction in accordance with § 319.40-7(d).

(ii) If lumber has been heat treated in accordance with § 319.40-7(c), that fact must be stated on the importer document, or by a permanent marking on each piece of lumber in the form of the letters "HT" or the words "Heat Treated." If lumber has been heat treated

with moisture reduction in accordance with § 319.40-7(d), that fact must be stated on the importer document, or by a permanent marking, on each piece of lumber or on the cover of bundles of lumber, in the form of the letters "KD" or the words "Kiln Dried."

(2) *Raw lumber.* Raw lumber, including solid wood packing materials imported as cargo, from all places except places in Asia that are east of 60° East Longitude and north of the Tropic of Cancer may be imported in accordance with paragraphs (b)(2) (i) and (ii) of this section.

(i) During shipment to the United States, no other regulated article (other than solid wood packing materials) is permitted on the means of conveyance with the raw lumber, unless the raw lumber and the other regulated articles are in separate holds or separate sealed containers. Raw lumber on the vessel's deck must be in a sealed container.

(ii) The raw lumber must be consigned to a facility operating under a compliance agreement in accordance with § 319.40-8 that requires the raw lumber to be heat treated in accordance with § 319.40-7(c) or heat treated with moisture reduction in accordance with § 319.40-7(d), within 30 days from the time the lumber is released from the port of first arrival. Heat treatment must be completed before any cutting, planing, or sawing of the raw lumber.

(c) *Wood chips and bark chips—(1) From Chile (pine) and South America (eucalyptus).* Wood chips from Chile that are derived from Monterey or Radiata pine (*Pinus radiata*) logs and wood chips from South America that are derived from temperate species of *Eucalyptus* may be imported in accordance with paragraph (c)(2) of this section or in accordance with the following requirements:

(i) The wood chips must be accompanied by a certificate stating that the wood chips meet the requirements in paragraphs (c)(1)(i)(A) through (c)(1)(i)(C) of this section.

(A) The wood chips were treated with a surface pesticide treatment in accordance with § 319.40-7(e) within 24 hours after the log was chipped and were retreated with a surface pesticide

treatment in accordance with § 319.40-7(e) if more than 30 days elapsed between the date of the first treatment and the date of export to the United States.

(B) The wood chips were derived from logs from live, healthy, plantation-grown trees that were apparently free of plant pests, plant pest damage, and decay organisms, and the logs used to make the wood chips were debarked in accordance with § 319.40-7(b) before being chipped.

(C) No more than 45 days elapsed from the time the trees used to make the wood chips were felled to the time the wood chips were exported.

(ii) During shipment to the United States, no other regulated articles (other than solid wood packing materials) are permitted in the holds or sealed containers carrying the wood chips. Wood chips on the vessel's deck must be in a sealed container.

(iii) The wood chips must be consigned to a facility in the United States that operates under a compliance agreement in accordance with § 319.40-8. The following requirements apply upon arrival of the wood chips in the United States:

(A) Upon arrival in the United States, the wood chips must be unloaded by a conveyor that is covered to prevent the chips from being blown by the wind and from accidental spillage. The facility receiving the wood chips must have a procedure in place to retrieve any chips that fall during unloading.

(B) If the wood chips must be transported after arrival, the chips must be covered or safeguarded in a manner that prevents the chips from spilling or falling off the means of conveyance or from being blown off the means of conveyance by wind.

(C) The wood chips must be stored at the facility on a paved surface and must be kept segregated from other regulated articles from the time of discharge from the means of conveyance until the chips are processed. The storage area must not be adjacent to wooded areas.

(D) The wood chips must be processed within 45 days of arrival at the facility. Any fines or unusable wood chips must

be disposed of by burning within 45 days of arrival at the facility.

(2) *From locations other than certain places in Asia.* Wood chips and bark chips from any place except places in Asia that are east of 60° east longitude and north of the Tropic of Cancer may be imported in accordance with this paragraph.

(i) The wood chips or bark chips must be accompanied by an importer document stating that the wood chips or bark chips were either:

(A) Derived from live, healthy, tropical species of plantation-grown trees grown in tropical areas; or

(B) Fumigated with methyl bromide in accordance with § 319.40-7(f)(3), heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d).

(ii) During shipment to the United States, no other regulated articles (other than solid wood packing materials) are permitted in the holds or sealed containers carrying the wood chips or bark chips. Wood chips or bark chips on the vessel's deck must be in a sealed container; *Except that:* If the wood chips or bark chips are derived from live, healthy, plantation-grown trees in tropical areas, they may be shipped on deck if no other regulated articles are present on the vessel and the wood chips or bark chips are completely covered by a tarpaulin during the entire journey directly to the United States.

(iii) The wood chips or bark chips must be free from rot at the time of importation, unless accompanied by an importer document stating that the entire lot was fumigated with methyl bromide in accordance with § 319.40-7(f)(3), heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d).

(iv) Wood chips or bark chips imported in accordance with this paragraph must be consigned to a facility operating under a compliance agreement in accordance with § 319.40-8. The wood chips or bark chips must be burned, heat treated in accordance with § 319.40-7(c), heat treated with moisture reduction in accordance with § 319.40-7(d), or otherwise processed in a manner that will destroy any plant

pests associated with the wood chips or bark chips within 30 days of arrival at the facility. If the wood chips or bark chips are to be used for mulching or composting, they must first be fumigated in accordance with § 319.40-7(f)(3), heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d).

(d) *Wood mulch, humus, compost, and litter.* Wood mulch, humus, compost, and litter may be imported if accompanied by an importer document stating that the wood mulch, humus, compost, or litter was fumigated in accordance with § 319.40-7(f)(3), heat treated in accordance with § 319.40-7(c), or heat treated with moisture reduction in accordance with § 319.40-7(d).

(e) *Cork and bark.* Cork and cork bark, cinnamon bark, and other bark to be used for food, manufacture of medicine, or chemical extraction may be imported if free from rot at the time of importation and subject to the inspection and other requirements of § 319.40-9.

(Approved by the Office of Management and Budget under control number 0579-0049)

[60 FR 27679, May 25, 1995; 60 FR 30157, June 7, 1995, as amended at 65 FR 21127, Apr. 20, 2000; 69 FR 2295, Jan. 15, 2004; 69 FR 52418, Aug. 26, 2004]

§ 319.40-7 Treatments and safeguards.

(a) *Certification of treatments or safeguards.* If APHIS determines that a document required for the importation of regulated articles is inaccurate, the regulated articles which are the subject of the certificate or other document shall be refused entry into the United States. In addition, APHIS may determine not to accept any further certificates for the importation of regulated articles in accordance with this subpart from a country in which an inaccurate certificate is issued, and APHIS may determine not to allow the importation of any or all regulated articles from any such country, until corrective action acceptable to APHIS establishes that certificates issued in that country will be accurate.

(b) *Debarking.* Except for raw lumber, no more than 2 percent of the surface of all regulated articles in a lot may retain bark, with no single regulated

article retaining bark on more than 5 percent of its surface. For raw lumber, debarking must remove 100 percent of the bark.

(c) *Heat treatment.* Heat treatment must be performed only at a facility where APHIS or an inspector authorized by the Administrator and the national government of the country in which the facility is located has inspected the facility and determined that its operation complies with the standards of this paragraph. Heat treatment procedures may employ steam, hot water, kilns, exposure to microwave energy, or any other method (e.g., the hot water and steam techniques used in veneer production) that raises the temperature of the center of each treated regulated article to at least 71.1 °C and maintains the regulated article at that center temperature for at least 75 minutes. For regulated articles heat treated prior to arrival in the United States, during the entire interval between treatment and export the regulated article must be stored, handled, or safeguarded in a manner which excludes any infestation of the regulated article by plant pests.

(d) *Heat treatment with moisture reduction.* (1) Heat treatment with moisture reduction may employ:

(i) Kiln drying conducted in accordance with the schedules prescribed for the regulated article in the Dry Kiln Operator's Manual, Agriculture Handbook 188, which is incorporated by reference at § 300.2 of this chapter; or,

(ii) Dry heat, exposure to microwave energy, or any other method that raises the temperature of the center of each treated regulated article to at least 71.1 °C, maintains the regulated articles at that center temperature for at least 75 minutes, and reduces the moisture content of the regulated article to 20 percent or less as measured by an electrical conductivity meter.

(2) For regulated articles heat treated with moisture reduction prior to arrival in the United States, during the entire interval between treatment and export the regulated article must be stored, handled, or safeguarded in a manner which excludes any infestation of the regulated article by plant pests.

(e) *Surface pesticide treatments.* All United States Environmental Protection Agency registered surface pesticide treatments are authorized for regulated articles imported in accordance with this subpart, except that *Pinus radiata* wood chips from Chile and wood chips from South America derived from temperate species of *Eucalyptus* must be treated in accordance with §319.40-7(e)(2). Surface pesticide treatments must be conducted in accordance with label directions approved by the United States Environmental Protection Agency. Under the following circumstances, surface pesticide treatments must also be conducted as follows:

(1) *Heat treated logs.* When used on heat treated logs, a surface pesticide treatment must be first applied within 48 hours following heat treatment. The surface pesticide treatment must be repeated at least every 30 days during storage of the regulated article, with the final treatment occurring no more than 30 days prior to departure of the means of conveyance that carries the regulated articles to the United States.

(2) *Pinus radiata wood chips from Chile and Eucalyptus (temperate species) wood chips from South America.* When used on *Pinus radiata* wood chips from Chile or on wood chips from South America derived from temperate species of *Eucalyptus*, a surface pesticide consisting of the following must be used: A mixture of a fungicide containing 64.8 percent of the active ingredient didecyl dimethyl ammonium chloride and 7.6 percent of the active ingredient 3-iodo-2-propynyl butylcarbamate and an insecticide containing 44.9 percent of the active ingredient chlorpyrifos phosphorothioate. The wood chips must be sprayed with the pesticide so that all the chips are exposed to the chemical on all sides. During the entire interval between treatment and export, the wood chips must be stored, handled, or safeguarded in a manner that prevents any infestation of the wood chips by plant pests.

(f) *Methyl bromide fumigation.* The following minimum standards for methyl bromide fumigation treatment are authorized for the regulated articles listed in paragraphs (f)(1) through (f)(3) of this section. Any method of fumigation that meets or exceeds the specified

temperature/time/concentration products is acceptable. Following fumigation, fumigated products must be aerated to reduce the concentration of fumigant below hazardous levels, in accordance with the Treatment Manual and label instructions approved by the U.S. Environmental Protection Agency.

(1) *Logs—(i) T-312 schedule.* The entire log and the ambient air must be at a temperature of 5 °C or above throughout fumigation. The fumigation must be conducted using schedule T-312 contained in part 305 of this chapter. In lieu of the schedule T-312 methyl bromide concentration, fumigation may be conducted with an initial methyl bromide concentration of at least 240 g/m³ with exposure and concentration levels adequate to provide a concentration-time product of at least 17,280 gram-hours calculated on the initial methyl bromide concentration.

(ii) *T-404 schedule.* The entire log and the ambient air must be at a temperature of 5 °C or more above throughout fumigation. The fumigation must be conducted using schedule T-404 contained in part 305 of this chapter.

(2) *Lumber.* The lumber and the ambient air must be at a temperature of 5 °C or more above throughout fumigation. The fumigation must be conducted using schedule T-404 contained in part 305 of this chapter.

(3) *Regulated articles other than logs or lumber.* (i) If the ambient air and the regulated articles other than logs or lumber are at a temperature of 21 °C or above throughout fumigation, the fumigation must be conducted using schedule T-404 contained in part 305 of this chapter. In lieu of the schedule T-404 methyl bromide concentration, fumigation may be conducted with an initial methyl bromide concentration of at least 48 g/m³ with exposure and concentration levels adequate to provide a concentration-time product of at least 760 gram-hours calculated on the initial methyl bromide concentration.

(ii) If the ambient air and the regulated articles other than logs or lumber are at a temperature of 4.5–20.5 °C throughout fumigation, the fumigation must be conducted using schedule T-404 contained in part 305 of this chapter.

(g) *Preservatives.* All preservative treatments that use a preservative product that is registered by the United States Environmental Protection Agency are authorized for treatment of regulated articles imported in accordance with this subpart. Preservative treatments must be performed in accordance with label directions approved by the United States Environmental Protection Agency.

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[60 FR 27674, May 25, 1999, as amended at 64 FR 59604, Nov. 3, 1999; 65 FR 21128, Apr. 20, 2000; 67 FR 8465, Feb. 25, 2002; 69 FR 2295, Jan. 15, 2004; 69 FR 52418, Aug. 26, 2004; 70 FR 33325, June 7, 2005]

§ 319.40-8 Processing at facilities operating under compliance agreements.

(a) Any person who operates a facility in which imported regulated articles are processed may enter into a compliance agreement to facilitate the importation of regulated articles under this subpart. The compliance agreement shall specify the requirements necessary to prevent spread of plant pests from the facility, requirements to ensure the processing method effectively destroys plant pests, and the requirements for the application of chemical materials in accordance with part 305 of this chapter. The compliance agreement shall also state that inspectors must be allowed access to the facility to monitor compliance with the requirements of the compliance agreement and of this subpart. Compliance agreement forms may be obtained from the Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement, orally or in writing, whenever the inspector finds that the person who entered into the compliance agreement has failed to comply with the conditions of the compliance agreement. If the cancellation is oral, the decision to cancel the compliance agreement and the reasons for cancellation of the compliance agreement shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been canceled may appeal the

decision in writing to the Administrator within 10 days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. The Administrator shall grant or deny the appeal, in writing, stating the reasons for granting or denying the appeal, as promptly as circumstances permit. If there is a conflict as to any material fact and the person whose compliance agreement has been canceled requests a hearing, a hearing shall be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control number 0579-0049)

[60 FR 27674, May 25, 1995, as amended at 69 FR 52418, Aug. 26, 2004; 70 FR 33325, June 7, 2005]

§ 319.40-9 Inspection and other requirements at port of first arrival.

(a) *Procedures for all regulated articles.*

(1) All imported regulated articles shall be inspected at the port of first arrival. If the inspector finds signs of plant pests on or in the regulated article, or finds that the regulated article may have been associated with other articles infested with plant pests, the regulated article shall be cleaned or treated as required by an inspector, and the regulated article and any products of the regulated article shall also be subject to reinspection, cleaning, and treatment at the option of an inspector at any time and place before all applicable requirements of this subpart have been accomplished.

(2) Regulated articles shall be assembled for inspection at the port of first arrival, or at any other place prescribed by an inspector, at a place and time and in a manner designated by an inspector.

(3) If an inspector finds that an imported regulated article is so infested with a plant pest that, in the judgment of the inspector, the regulated article cannot be cleaned or treated, or contains soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

(4) No person shall move any imported regulated article from the port

of first arrival unless and until an inspector notifies the person, in writing or through an electronic database, that the regulated article:

(i) Is in compliance with all applicable regulations and has been inspected and found to be apparently free of plant pests;⁴ or,

(ii) Has been inspected and the inspector requires reinspection, cleaning, or treatment of the regulated article at a place other than the port of first arrival.

(b) *Notice of arrival; visual examination of regulated articles at port of first arrival.* (1) At least 7 days prior to the expected date of arrival in the United States of a shipment of regulated articles imported in accordance with this subpart, the permittee or his or her agent must notify the APHIS Officer in Charge at the port of arrival of the date of expected arrival. The address and telephone number of the APHIS Officer in Charge will be specified in any specific permit issued by APHIS⁵. This notice may be in writing or by telephone. The notice must include the number of any specific permit issued for the regulated articles; the name, if any, of the means of conveyance carrying the regulated articles; the type and quantity of the regulated articles; the expected date of arrival; the country of origin of the regulated articles; the name and the number, if any, of the dock or area where the regulated articles are to be unloaded; and the name of the importer or broker at the port of arrival.

(2) Imported regulated articles which have been debarked in accordance with § 319.40–7(b) and can be safely and practically inspected will be visually examined for plant pests by an inspector at the port of first arrival. If plant pests

are found on or in the regulated articles or if the regulated article cannot be safely and practically inspected, the regulated articles must be treated in accordance with part 305 of this chapter.

(c) *Marking and identity of regulated articles.* Any regulated article, at the time of importation shall bear on the outer container (if in a container), on the regulated article (if not in a container), or on a document accompanying the regulated article the following information:

(1) General nature and quantity of the regulated articles;

(2) Country and locality, if known, where the tree from which the regulated article was derived was harvested;

(3) Name and address of the person importing the regulated article;

(4) Name and address of consignee of the regulated article;

(5) Identifying shipper's mark and number; and

(6) Number of the permit (if one was issued) authorizing the importation of the regulated article into the United States.

(d) *Sampling for plant pests at port of first arrival.* Any imported regulated article may be sampled for plant pests at the port of first arrival. If an inspector finds it necessary to order treatment of a regulated article at the port of first arrival, any sampling will be done prior to treatment.

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[60 FR 27674, May 25, 1995, as amended at 66 FR 21056, Apr. 27, 2001; 69 FR 52418, Aug. 26, 2004; 70 FR 33325, June 7, 2005]

§ 319.40–10 Costs and charges.

The services of an inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.⁶ The inspector may require the importer to furnish any labor, chemicals,

⁴Certain regulated articles may also be subject to §§ 319.56 through 319.56–8, “Subpart—Fruits and Vegetables,” or to the noxious weed regulations under part 360 of this chapter, or to Endangered Species Act regulations under parts 355 and 356 of this chapter and 50 CFR parts 17 and 23.

⁵A list of APHIS Officers in Charge may be obtained from the Administrator, c/o Port Operations, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, 4700 River Road, Riverdale, MD 20737.

⁶Provisions relating to costs for other services of an inspector, including services related to extra inspection and separation of cargo from packing material for shipments that arrive without meeting the requirements of this subpart as required, are contained in part 354 of this chapter.

packing materials, or other supplies required in handling regulated articles under this subpart. APHIS will not be responsible for any costs or charges, other than those identified in this section.

[60 FR 27674, May 25, 1995, as amended at 63 FR 50111, Sept. 18, 1998; 69 FR 52418, Aug. 26, 2004; 69 FR 55733, Sept. 16, 2004]

§ 319.40-11 Plant pest risk assessment standards.

When evaluating a request to import a regulated article not allowed importation under this subpart, or a request to import a regulated article under conditions other than those prescribed by this subpart, APHIS will conduct the following analysis to determine the plant pest risks associated with each requested importation in order to determine whether or not to issue a permit under this subpart or to propose regulations establishing conditions for the importation into the United States of the regulated article.

(a) *Collecting commodity information.*

(1) APHIS will evaluate the application for information describing the regulated article and the origin, processing, treatment, and handling of the regulated article; and

(2) APHIS will evaluate history of past plant pest interceptions or introductions (including data from foreign countries) associated with the regulated article.

(b) *Cataloging quarantine pests.* For the regulated article specified in an application, APHIS will determine what plant pests or potential plant pests are associated with the type of tree from which the regulated article was derived, in the country and locality from which the regulated article is to be exported. A plant pest that meets one of the following criteria is a quarantine pest and will be further evaluated in accordance with paragraph (c) of this section:

(1) Non-indigenous plant pest not present in the United States;

(2) Non-indigenous plant pest, present in the United States and capable of further dissemination in the United States;

(3) Non-indigenous plant pest that is present in the United States and has reached probable limits of its ecologi-

cal range, but differs genetically from the plant pest in the United States in a way that demonstrates a potential for greater damage potential in the United States;

(4) Native species of the United States that has reached probable limits of its ecological range, but differs genetically from the plant pest in the United States in a way that demonstrates a potential for greater damage potential in the United States; or

(5) Non-indigenous or native plant pest that may be able to vector another plant pest that meets one of the criteria in paragraphs (b)(1) through (4) of this section.

(c) *Determining which quarantine pests to assess.* (1) APHIS will divide quarantine pests identified in paragraph (b) of this section into groups depending upon where the plant pest is most likely to be found. The plant pests would be grouped as follows:

(i) Plant pests found on the bark;

(ii) Plant pests found under the bark; and

(iii) Plant pests found in the wood.

(2) APHIS will subdivide each of the groups in paragraph (c)(1) of this section into associated taxa.

(3) APHIS will rank the plant pests in each group in paragraph (c)(2) of this section according to plant pest risk, based on the available biological information and demonstrated plant pest importance.

(4) APHIS will identify any plant pests ranked in paragraph (c)(3) of this section for which plant pest risk assessments have previously been performed in accordance with this section. APHIS will conduct individual plant pest risk assessments for the remaining plant pests, starting with the highest ranked plant pest(s) in each group.

(5) The number of plant pests in each group to be evaluated through individual plant pest risk assessment will be based on biological similarities of members of the group as they relate to measures taken in connection with the importation of the regulated article to mitigate the plant pest risk associated with the regulated article. For example, if the plant pest risk assessment for the highest ranked plant pest indicates a need for a mitigation measure

that would result in the same reduction of risk for other plant pests ranked in the group, the other members need not be subjected to individual plant pest risk assessment.

(d) *Conducting individual plant pest risk assessments.* APHIS will evaluate each of the plant pests identified in paragraph (c)(4) of this section by:

(1) Estimation of the probability of the plant pest being on, with, or in the regulated article at the time of importation;

(2) Estimation of the probability of the plant pest surviving in transit on the regulated article and entering the United States undetected;

(3) Estimation of the probability of the plant pest colonizing once it has entered into the United States;

(4) Estimation of the probability of the plant pest spreading beyond any colonized area; and

(5) Estimation of the damage to plants that could be expected upon introduction and dissemination within the United States of the plant pest.

(e) *Estimating unmitigated overall plant pest risk.* APHIS will develop an estimation of the overall plant pest risk associated with importing the regulated article based on compilation of individual plant pest risk assessments performed in accordance with paragraph (d) of this section.

(f) *Evaluating available requirements to determine whether they would allow safe importation of the regulated article.* The requirements of this subpart, and any other requirements relevant to the regulated article and plant pests involved, will be compared with the individual plant pest risk assessments in order to determine whether particular conditions on the importation of the regulated article would reduce the plant pest risk to an insignificant level. If APHIS determines that the imposition of particular conditions on the importation of the regulated article could reduce the plant pest risk to an insignificant level, and determines that sufficient APHIS resources are available to implement or ensure implementation of the conditions, APHIS will implement rulemaking to allow importation of the requested regulated article under the conditions identified by the plant pest risk assessment process.

Subpart—Indian Corn or Maize, Broomcorn, and Related Plants

QUARANTINE

§ 319.41 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice given, that dangerous plant pests, including the so-called European corn borer (*Ostrinia nubilalis* Hubn.), and also other dangerous insects, as well as plant diseases not heretofore widely prevalent or distributed within and throughout the United States, exist, as to one or more of such pests, in Europe, Asia, Africa, Dominion of Canada, Mexico, Central and South America, and other foreign countries and localities, and may be introduced into this country through importations of the stalks or other parts of Indian corn or maize, broomcorn, and related plants.

(b) To prevent the introduction of these plant pests, the following articles may not be imported into the United States except in accordance with this subpart: The raw or unmanufactured stalk and all other parts of Indian corn or maize (*Zea mays* L.), broomcorn (*Andropogon sorghum* var. *technicus*), sweet sorghums (*Andropogon sorghum*), grain sorghums (*Andropogon sorghum*), Sudan grass (*Andropogon sorghum* sudanensis), Johnson grass (*Andropogon halepensis*), sugarcane (*Saccharum officinarum*), including Japanese varieties, pearl millet (*Pennisetum glaucum*), napier grass (*Pennisetum purpureum*), teosinte (*Euchlaena luxurians*), and jobs-tears (*Coix lachryma-Jobi*).

(c) When the public interests will permit, the Deputy Administrator of the Plant Protection and Quarantine Programs may, upon request in specific cases, authorize such importations into Guam under conditions specified in the permit that are less stringent than those contained in this subpart.

(d) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

[24 FR 10788, Dec. 29, 1959, as amended at 66 FR 21056, Apr. 27, 2001]

§ 319.41a Administrative instructions relating to entry into Guam of broomcorn, brooms, and similar articles.

(a) Broomcorn for manufacturing purposes, and brooms and similar articles made of broomcorn may be imported into Guam without further permit, other than the authorization contained in this section, and without other restriction under this subpart. Notice of arrival for such importations is not necessary inasmuch as there is available to the inspector the essential information normally supplied by the importer at time of importation. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part 319, disposition may be made in accordance with § 330.106 of this chapter.

(b) Shelled corn and seeds of other plants listed in § 319.41, and mature corn on the cob, may be imported into Guam without further permit, other than the authorization contained in this section and without other restriction under this subpart, but such importations are subject to the requirements of § 319.37-4(a).

(c) Green corn on the cob may be imported into Guam without restriction under this subpart, but such importations are subject to the requirements of § 319.56-2.

§ 319.41b Administrative instructions prescribing conditions for entry of broomstraw without treatment.

Broomstraw, sometimes referred to as "combed stalkless", when consisting of individual straws entirely free from stems, stalks, stubs of stalks, and leaves, may be imported from all countries without seasonal limitation through ports of entry designated in the permit, provided it is bundled and baled to prevent breakage and scattering and to facilitate inspection, in the following manner:

(a) The broomstraw shall be assembled into bundles with the base of the individual straws at the same end, no alternating of layers being permitted.

(b) Each bundle shall be securely tied to prevent breakage.

(c) Individual bundles shall be compacted, grouped into bales, and so arranged that the butt of each bundle is exposed on the outside of the bale.

(d) Each bale shall be securely bound to prevent shifting or loosening of the bundles in transit.

(e) Broomstraw found upon inspection at the port of entry to contain stems, stalks, stubs of stalks, or leaves shall be sterilized under the supervision of an inspector. Broomstraw contaminated in the aforesaid manner, from countries other than those on the North or South American Continents or the West Indies, shall be considered as broomcorn and shall be subject to compliance with § 319.41-3(b).

[25 FR 12809, Dec. 14, 1960]

RULES AND REGULATIONS

§ 319.41-1 Plant products permitted entry.¹

Except as restricted from certain countries and localities by special quarantines and other orders now in force,² and by such as may hereafter be

¹Except as provided in § 319.41-6 the regulations in this subpart do not authorize importations through the mails.

²The entry of the following plants and plant products is prohibited or restricted by specific quarantines and other restrictive orders now in force.

(a) Living canes of sugarcane, or cuttings or parts thereof, from all foreign countries. (§ 319.15.)

(b) Except as provided for in paragraph (c) for corn seed from New Zealand, seed and all other portions in the raw or unmanufactured state of Indian corn or maize (*Zea mays* L.), and the closely related plants, including all species of Teosinte (*Euchlaena*), jobs-tears (*Coix*), *Polytoca*, *Chionachne*, *Sclerachne*, and *Trilobachne*, from Australia, Burma, Cambodia, China, Formosa, India, Indonesia, Japan and adjacent islands, Laos, Malaya, Manchuria, New Guinea, New Zealand, North Viet-Nam, Oceania, Pakistan, Philippines, Ryukyu Islands, Thailand, and Viet-Nam. (§ 319.24.)

(c) Seed of Indian corn or maize (*Zea mays* L.) that is free from the cob and from all other parts of corn may be imported into the United States from New Zealand without further restriction. (§ 319.24.)

§ 319.41-2

promulgated, the following articles may be imported:

(a) Subject only to the requirements of paragraphs (a), (b), and (c) of § 319.41-5:

(1) Green corn on the cob, in small lots for local use only, from adjacent areas of Canada.

(2) Articles made of the stalks, leaves, or cobs of corn, when prepared, manufactured, or processed in such manner that in the judgment of the inspector no pest risk is involved in their entry.

(3) Corn silk.

(b) Upon compliance with the regulations in this subpart:

(1) Broomcorn for manufacturing purposes, brooms or similar articles made of broomcorn, clean shelled corn, and clean seed of the other plants covered by § 319.41.

(2) Corn on the cob, green or mature, from the provinces of Canada west of and including Manitoba,³ and from Mexico, Central America, South America, the West Indies, the Bahamas, and Bermuda.

(c) Seed of Indian corn or maize (*Zea mays L.*) that is free from the cob and from all other parts of corn may be imported into the United States from New Zealand without further restriction.

(d) Immature, dehusked "baby" sweet corn may be imported from Zambia in accordance with § 319.56-2f(a).

[24 FR 10788, Dec. 29, 1959, as amended at 58 FR 44745, Aug. 25, 1993; 71 FR 29769, May 24, 2006]

§ 319.41-2 Application for permits.

(a) Persons contemplating the importation of any of the articles specified in § 319.41-1(b), shall first make application to the Plant Protection and Quarantine Programs for a permit, stating in the application the name and address of the exporter, the country and locality where grown, the port of arrival, and the name and address of the importer in the United States to whom the permit should be sent. Unless otherwise stated in the permit, all permits

³A quarantine is maintained by Canada to prevent spread of the European corn borer from the infested eastern areas to the still uninfested Provinces west of Ontario.

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will be valid from date of issuance until revoked.

(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at the risk and expense of the importer for a period not exceeding 20 days pending the receipt of the permit.

(c) Applications may be made by telegraph, in which case the information required above must be given.

(Approved by the Office of Management and Budget under control number 0579-0049)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.41-3 Issuance of permits.

(a) On approval by the Deputy Administrator of the Plant Protection and Quarantine Programs of the application mentioned in § 319.41-2, a permit will be issued.

(b) For broomcorn and brooms and similar articles made of broomcorn, permits will be issued by the Deputy Administrator of the Plant Protection and Quarantine Programs for such ports as may be designated therein, except that permits will be issued for the entry of broomcorn originating in countries other than those in the North or South American Continents or the West Indies only through the ports of Baltimore, Boston, New York, and Norfolk, or through other northeastern ports which may from time to time be designated in the permit, and at which facilities for treatment of infested material may be available, such entry to be limited to those shipments accompanied by on-board bills of lading dated within the period September 15 through February 15 of the succeeding year, both dates inclusive. Permits will not be issued for the entry of broomcorn from any source through ports on the Pacific Coast.

(c) For shelled corn and for seeds of other plants listed in § 319.41, and for corn on the cob, green or mature, from the land areas designated in § 319.41(b)(2), permits will be issued for ports where the Plant Protection and Quarantine Programs maintains an inspection service and for such other

ports as may be designated in the permit.

(d) Pending development of adequate treating facilities in Guam, any of the articles specified in § 319.41-1 that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a U.S. port of arrival where such treating facilities are available.

[24 FR 10788, Dec. 29, 1959, as amended at 33 FR 11811, Aug. 21, 1968; 36 FR 24917, Dec. 24, 1971]

§ 319.41-4 Notice of arrival by permittee.

Immediately upon arrival of the importation at the port of arrival the permittee shall submit, in duplicate, notice to the Plant Protection and Quarantine Programs, through the U.S. Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit, the date of entry, the name of ship or vessel, railroad, or other carrier, the country and locality where the articles were grown, the name of the foreign shipper, the quantity or number of bales or containers, and the marks and numbers on the bales or containers, the port of arrival, and the name of the importer or broker at the port of arrival.

(Approved by the Office of Management and Budget under control number 0579-0049)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.41-5 Condition of entry.

(a) The entry of the articles covered by § 319.41-1 is conditioned on their freedom from the European corn borer and other injurious insects and plant diseases, and upon their freedom from contamination with plant materials prohibited entry under other quarantines. All shipments of these articles shall be subject to inspection at the port of arrival by an inspector of the Plant Protection and Quarantine Programs, in order to determine their freedom from such insects and diseases and from contaminating materials, and to such sterilization, grinding, or other necessary treatment as the inspector

may prescribe. Should an importation be found on inspection to be so infested or infected or contaminated that, in the judgment of the inspector, it can not be made safe by sterilization or other treatment, the entire shipment may be refused entry.

(b) When entry under sterilization or other treatment is permitted, the importation will be released to the permittee for such treatment, upon the filing with the appropriate customs official of a bond in the amount of \$5,000, or in an amount equal to the invoice value, if such value be less than \$5,000, with approved sureties, and conditioned that the importation shall be sterilized or otherwise treated under the supervision of the inspector; that no bale or container shall be broken, opened, or removed from the port of arrival unless and until a written notice is given to said customs official by an inspector that the importation has been properly sterilized or treated; and that the importation shall be redelivered to said customs official within 30 days after its arrival.

(c) Should a shipment requiring sterilization or other treatment under the provisions of the regulation in this subpart arrive at a port where facilities for such sterilization or other treatment are not maintained, such shipment shall either be promptly shipped under safeguards and by routing prescribed by the inspector to an approved port where facilities for sterilization or other treatment are available, or it shall be refused entry.

(d) Other conditions of entry as applying to the certain classes of articles enumerated in § 319.41-1 are:

(1) *Broomcorn.* All importations of broomcorn shall be so baled as to prevent breakage and scattering in connection with the necessary handling and sterilization; if in the judgment of the inspector they are not so baled, entry may be refused. All importations of broomcorn shall be subject to such sterilization or other treatment as the inspector may require.

(2) *Articles made of broomcorn.* Brooms or similar articles made of broomcorn shall be subject to sterilization unless their manufacture involves the substantial elimination of stems or such treatment of the included stems as in

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the judgment of the inspector shall preclude such articles from being the means of carriage of the European corn borer and of other injurious insects and plant diseases.

(3) *Shelled corn and other seeds.* If shipments of shelled corn and seeds of the other plants from countries other than those named in § 319.41-1 (b)(2) are found upon inspection at the port of arrival to be appreciably fouled with cobs or other portions of the plants the inspector may require sterilization or other treatment or may refuse entry.

§ 319.41-5a Administrative instructions; method used for the disinfection of imported broomcorn and broomcorn brooms.

Broomcorn and articles made of broomcorn which are required to be treated, under the provisions of § 319.41-5, will be treated by one of the following methods:

(a) *Vacuum fumigation.* (1) The temperature of the stalks and of the fumigation chamber during the fumigation shall be not less than 60 °F.

(2) The dosage for the fumigation shall be 3 pounds of liquid hydrocyanic acid or its equivalent per 1,000 cubic feet of space.

(3) The air pressure in the fumigation chamber shall be reduced to the equivalent of 2 inches of mercury (a 28-inch vacuum at sea level), after which the hydrocyanic acid shall be introduced and the low pressure held for the duration of the fumigation.

(4) The exposure shall be not less than 3 hours.

(b) *Steam sterilization.* (1) The air pressure in the treating chamber shall be reduced to the equivalent of 5 inches of mercury (a 25-inch vacuum at sea level).

(2) Steam shall then be introduced until a positive pressure of 10 pounds is obtained.

(3) The exposure to the 10-pound positive pressure of steam shall continue for a period sufficient to assure a constant temperature in all parts of the treating chamber, after which the steam may be shut off and the treating chamber exhausted of the uncondensed steam.

(c) *Other treatments.* Any other treatments approved by the Deputy Admin-

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istrator of the Plant Protection and Quarantine Programs in specific cases.

[24 FR 10788, Dec. 29, 1959, as amended at 34 FR 15559, Oct. 7, 1969; 36 FR 24917, Dec. 24, 1971]

§ 319.41-6 Importations by mail.

In addition to entries by freight or express provided for in § 319.41-5, importations are permitted by mail of (a) mature corn on the cob from the countries specified in § 319.41-1(b)(2), (b) clean shelled corn and clean seed of the other plants covered by § 319.41: *Provided*, That a permit has been issued for the importation: *Provided further*, That each shipment is accompanied from the foreign mailing point by a special mailing tag, which will direct the package to a Plant Protection and Quarantine Programs inspection station for inspection in accordance with § 319.41-5 before release to the mails for delivery to the importer. These special mailing tags will be furnished on request to the importer for transmission to his foreign shipper.

(Approved by the Office of Management and Budget under control number 0579-0049)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

Subpart—Rice

QUARANTINE

§ 319.55 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given, (1) that injurious fungous diseases of rice, including downy, mildew (*Sclerospora macrospora*), leaf smut (*Entyloma oryzae*), blight (*Oospira oryzae*), and glume blotch (*Melanomma glumarum*), as well as dangerous insect pests, new to and not heretofore widely prevalent or distributed within and throughout the United States, exist, as to one or more of such diseases and pests, in Europe, Asia, Africa, Central America, South America, and other foreign countries and localities, and may be introduced into this country through importations of seed or paddy rice, rice straw, and rice hulls, and (2) that the unrestricted importation of seed or paddy rice from the Republic of

Mexico and of rice straw and rice hulls from all foreign countries and localities may result in the entry into the United States of the injurious plant diseases heretofore enumerated, as well as insect pests.

(b) To prevent the introduction into the United States of the plant pests and diseases indicated above, the Secretary has determined that it is necessary to prohibit the importation into the United States of seed or paddy rice from all foreign locations except the Republic of Mexico and to restrict the importation of seed or paddy rice, rice straw, and rice hulls from the Republic of Mexico and all other foreign locations, except as otherwise provided in this subpart.

(c) When the public interests will permit, the Deputy Administrator of the Plant Protection and Quarantine Programs may, upon request in specific cases, authorize such importations into Guam under conditions specified in the permit that are less stringent than those contained in this subpart.

(d) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

[24 FR 10788, Dec. 29, 1959, as amended at 66 FR 21056, Apr. 27, 2001]

§ 319.55a Administrative instructions relating to entry of rice straw and rice hulls into Guam.

Rice straw and rice hulls may be imported into Guam without further permit, other than the authorization contained in this paragraph. The port of entry shall be Agana or such other port as may be satisfactory to the inspector. Such importations may be made without the submission of a notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by an importer at the time of importation. The requirements of §§ 319.55-6 and 319.55-7 shall not apply. Inspections of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated by any plant pest and is not subject to disposal under this part, disposition may

be made in accordance with § 330.106 of this chapter.

RULES AND REGULATIONS

§ 319.55-1 Definitions.

(a) *Seed or paddy rice.* Unhusked rice in the form commonly used for seed purposes; the regulations in this subpart do not apply to husked or polished rice imported for food purposes.

(b) *Port of first arrival.* The first port within the United States where the shipment is (1) offered for consumption entry or (2) offered for entry for immediate transportation in bond.

(c) *Inspector.* An Inspector of the Plant Protection and Quarantine Programs of the United States Department of Agriculture.

§ 319.55-2 Application for permit.

(a) Application for a permit to import seed or paddy rice from Mexico or rice straw or rice hulls from any country, may be made to the Plant Protection and Quarantine Programs, indicating in the application the locality where the desired material has been grown, the port of first arrival, and the name and address of the importer in the United States to whom the permit should be sent, if other than the applicant.

(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at the port of first arrival, at the risk and expense of the importer, for a period not exceeding 20 days, pending the receipt of the permit.

(c) Application may be made by telegraph, in which case the information required above must be furnished.

(Approved by the Office of Management and Budget under control number 0579-0049)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.55-3 Ports of entry.

(a) For importations of seed or paddy rice from the Republic of Mexico, permits will be issued for entry through Mexican border ports and such other ports as may later be approved by the

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Plant Protection and Quarantine Programs.

(b) For importations of rice straw and rice hulls from all foreign countries, permits will be issued for entry at New York and Boston and at such other ports as may later be approved by the Plant Protection and Quarantine Programs.

(c) Pending development of adequate treating facilities in Guam, seed or paddy rice, rice straw, and rice hulls that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a United States port of arrival where such treating facilities are available.

(d) Should a shipment requiring treatment arrive at a port where facilities for such treatment are not maintained, such shipment shall either be promptly shipped under safeguards and by routing prescribed by the inspector to an approved port where facilities for treatment are available, or it shall be refused entry.

§ 319.55-4 Issuance of permits.

Upon receipt of an application and upon approval by an inspector a permit will be issued specifying the conditions of entry and the port of entry to carry out the purposes of this subpart, and a copy will be supplied to the importer.

§ 319.55-5 Notice of arrival by permittee.

Immediately upon the arrival of a shipment at the port of first arrival, the permittee or his agent shall submit a notice, in duplicate, to the Plant Protection and Quarantine Programs, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on a form provided for that purpose, stating the number of the permit, the quantity in the shipment, the locality where grown, the date of arrival, and, if by rail, the name of the railroad company, the car numbers, and the terminal where the shipment is to be unloaded, or, if by vessel, the name of the vessel

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and the designation of the dock where the shipment is to be landed.

(Approved by the Office of Management and Budget under control number 0579-0049)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.55-6 Inspection and disinfection at port of arrival.

(a) *Paddy rice.* All importations of seed or paddy rice from Mexico shall be subject, as a condition of entry, to such inspection or disinfection, or both, at the port of arrival, as shall be required by the inspector, and to the delivery to the collector of customs by the inspector of a written notice that the seed or paddy rice has been inspected and found to be apparently free from plant diseases and insect pests or that the required treatment has been given. Should any shipment of such seed or paddy rice be found to be so infested with insect pests or infected with plant diseases that, in the judgment of the inspector, it cannot be cleaned by disinfection or other treatment, the entire shipment may be refused entry.

(b) *Rice straw and rice hulls.* (1) As a condition of entry, rice straw and rice hulls shall be subject to inspection and to treatment at the port of arrival, under the supervision of the inspector, by methods and at plants approved by the Plant Protection and Quarantine Programs and, as a further condition of entry, in order to permit effective treatment, the contents of packages or bales shall not be compressed to a density of more than 30 pounds per cubic foot. Rice straw and rice hulls will be admitted only at ports where adequate facilities are available for such treatment. The required treatment must be given within 20 days after arrival, but if any shipment of rice straw or rice hulls shall be found upon arrival to be dangerously infested or infected the inspector may direct immediate treatment under adequate safeguards; and, if the treatment and safeguards are not put into effect as directed, the shipment shall be removed from the country immediately or destroyed.

(2) Unless, within 20 days after the date of arrival of a shipment at the port at which the formal entry was filed, the importation has received the required treatment, due notice of

which shall be given to the collector of customs by the inspector, demand will be made by the collector for redelivery of the shipment into customs custody under the terms of the entry bond, and, if such redelivery is not made, the shipment shall be removed from the country or destroyed.

(c) *General.* (1) All charges for storage, cartage, and labor incident to inspection and disinfection, other than the services of the inspector, shall be paid by the importer.

(2) All shipments shall be so baled, bagged, or wrapped as to prevent scattering or wastage. If, in the judgment of the inspector, a shipment is not so bagged, baled, or wrapped, it shall be reconditioned at the expense of the permittee or entry may be refused.

§ 319.55-7 Importations by mail.

Sections 319.55-2 to 319.55-6, inclusive, provide for importations otherwise than through the mails. Importations of seed or paddy rice from Mexico, and of rice straw and rice hulls from all foreign countries and localities, may be made by mail, *Provided*

(a) That a permit has been issued for the importation in accordance with §§ 319.55-2, 319.55-4, and (b) That each shipment is accompanied from the foreign mailing point by a special mailing tag directing the package to a Plant Protection and Quarantine Programs inspection station for inspection and, if necessary, for treatment, before being released to the mails for delivery to the importer, unless entry is refused in accordance with the provisions of § 319.55-6. The special mailing tags will be furnished on request to the importer for transmission in advance to his foreign shipper.

(Approved by the Office of Management and Budget under control number 0579-0049)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

Subpart—Fruits and Vegetables

QUARANTINE

§ 319.56 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given:

(1) That there exist in Europe, Asia, Africa, Mexico, Central America, and South America, and other foreign countries and localities, certain injurious insects, including fruit and melon flies (Tephritidae), new to and not heretofore widely distributed within and throughout the United States, which affect and may be carried by fruits and vegetables commercially imported into the United States or brought to the ports of the United States as ships' stores or casually by passengers or others, and

(2) That the unrestricted importation of fruits and vegetables from the countries and localities enumerated may result in the entry into the United States of quarantine pests.

(b) To prevent the introduction into the United States of the aforementioned injurious insects, the Secretary has determined that it is necessary to prohibit the importation into the United States of fruits and vegetables, and the plants or portions of plants used as packing material for such fruits and vegetables, except as otherwise provided in this subpart.

(c) When the public interests will permit, the Administrator may, upon request in specific cases, authorize such importations into Guam under conditions specified in the permit that are less stringent than those contained in this subpart.

[24 FR 10788, Dec. 29, 1959, as amended at 66 FR 21056, Apr. 27, 2001; 68 FR 37915, June 25, 2003; 70 FR 72886, Dec. 8, 2005]

§ 319.56a Administrative instructions and interpretation relating to entry into Guam of fruits and vegetables under § 319.56.

(a) The following fruits and vegetables may be imported into Guam without treatment except as it may be required under § 319.56-6 and they shall otherwise be subject to all the requirements of this subpart as modified by this section:

(1) All fruits and vegetables from the Marianas Islands.

(2) All leafy vegetables and root crops from the Bonin Islands, Volcano Islands, and Ryukyu Islands.

(3) All fruits and vegetables from the Caroline Islands, except citrus fruits, and except taro from the Palau and

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Yap districts (the excepted products are not approved for entry into Guam under § 319.56 without treatment).

(4) Allium, artichokes, bananas, bell peppers, cabbage, carrots, celery, Chinese cabbage, citrus fruits, eggplant, grapes, lettuce, melons, okra, parsley, peas, persimmons, potatoes, rhubarb, squash (*Cucurbita maxima*), stone and pome fruits, string beans, sweetpotatoes, tomatoes, turnip greens, turnips, and watermelons, from Japan and Korea.

(5) Leafy vegetables, celery, and potatoes, from the Philippine Islands.

(6) Carrots (without tops), celery, lettuce, peas, potatoes, and radishes (without tops), from Australia.

(7) Arrowroot, asparagus, bean sprouts, broccoli, cabbage, carrots (without tops), cassava, cauliflower, celery, chives, cow-cabbage, dasheen, garlic, gingerroot, horseradish, kale, kudzū, leek, lettuce, onions, Portuguese cabbage, turnip, udo, water chestnut, watercress, waterlilyroot, and yam bean root, from Taiwan (Formosa).

(8) Lettuce from Netherlands New Guinea.

(9) Carrots, celery, lettuce, loquats, onions, persimmons, potatoes, tomatoes, and stone fruits, from New Zealand.

(10) Asparagus, carrots (without tops), celery, lettuce, and radishes (without tops) from Thailand.

(11) Green corn on the cob.

(12) All other fruits and vegetables administratively approved for entry into any other part or port of the United States, except those for which a treatment is specified as a condition of entry and except any which are now, or may subsequently be, specifically designated in this subpart as not approved.

(b) The inspector in Guam may, in his judgment, accept an oral application and issue an oral permit for products within paragraph (a) of this section, which shall be deemed to fulfill the requirements of § 319.56-3. He may waive the documentation required in § 319.56-5 for such products whenever he shall find that information available from other sources meets the requirements under this subpart for the information

normally supplied by such documentation.

(c) The provisions of §§ 319.56-2a and 319.56-2b shall not apply to chestnuts and acorns imported into Guam and they shall be enterable without further permit, other than the authorization contained in this paragraph, and without other restriction under this subpart, in accordance with the second paragraph of § 319.56-2. Inspections of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

(d) Coconuts with husks are not approved for entry into Guam from the Trust Territory under § 319.56.

(e) Application of the provisions of §§ 319.56-2d, 319.56-2e, 319.56-2g, 319.56-2k, 319.56-2l, and 319.56-2p is impracticable in the case of traffic into Guam and therefore such application is withdrawn. The fruits and vegetables which are the subject of said provisions are not enterable into Guam except as they are now, or may later be, listed in paragraph (a) of this section. Yams are included in the listings in paragraphs (a) (1) and (2) of this section.

(f) Baskets or other containers made of coconut fronds are not approved for use as containers for fruits and vegetables imported into Guam. Fruits and vegetables in such baskets or containers offered for importation into Guam will not be regarded as meeting the requirement of the first paragraph of § 319.56-2.

[24 FR 10788, Dec. 29, 1959, as amended at 29 FR 2329, Feb. 11, 1964; 29 FR 6614, May 21, 1964; 31 FR 5607, Apr. 9, 1966; 34 FR 14638, Sept. 20, 1969; 35 FR 9105, June 12, 1970; 35 FR 16678, Oct. 28, 1970; 58 FR 43497, Aug. 17, 1993; 65 FR 37667, June 15, 2000; 68 FR 37915, June 25, 2003]

RULES AND REGULATIONS

§ 319.56-1 Definitions.

Above ground parts. Any plant parts, such as stems, leaves, fruit, or inflorescence, that grow solely above the soil surface.

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

APHIS. The Animal and Plant Health Inspection Service, United States Department of Agriculture.

Commercial shipment. A shipment containing fruits and vegetables that an inspector identifies as having been produced for sale and distribution in mass markets. Such identification will be based on a variety of indicators, including, but not limited to: quantity of produce, type of packaging, identification of grower or packing house on the packaging, and documents consigning the shipment to a wholesaler or retailer.

Country of origin. Country where the plants from which the plant products are derived were grown.

Cucurbits. Any plants in the family Cucurbitaceae.

Field. A plot of land with defined boundaries within a place of production on which a commodity is grown.

Fruits and vegetables. A commodity class for fresh parts of plants intended for consumption or processing and not for planting.

General permit. The authorization contained in § 319.56-2(b), (c), or (d) for any person to import the articles named in those paragraphs, in accordance with the requirements specified in those paragraphs, without being issued a specific written permit.

Import and importation. To move into, or the act of movement into, the territorial limits of the United States.

Inspector. Any individual authorized by the Administrator of APHIS or the Commissioner of the Bureau of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this subpart.

National plant protection organization (NPPO). Official service established by a government to discharge the functions specified by the International Plant Protection Convention.

Permit. A written or oral authorization, including by electronic methods, to import fruits or vegetables in ac-

cordance with the regulations in this subpart.

Place of production. Any premises or collection of fields operated as a single production or farming unit. This may include a production site that is separately managed for phytosanitary purposes.

Plant debris. Detached leaves, twigs, or other portions of plants, or plant litter or rubbish as distinguished from approved parts of clean fruits and vegetables, or other commercial articles.

Port of first arrival. The first point of entry into the United States where the consignment is offered for entry.

Production site. A defined portion of a place of production utilized for the production of a commodity that is managed separately for phytosanitary purposes. This may include the entire place of production or portions of it. Examples of portions of places of production are a defined orchard, grove, field, or premises.

Quarantine pest. A pest of potential economic importance to the area endangered by it and not yet present there, or present but not widely distributed there and being officially controlled.

Specific written permit. A written or electronic authorization issued by APHIS to a person to import a particular fruit or vegetable from a specified country in accordance with the requirements of this subpart and any additional conditions that may be assigned.

United States. All of the States of the United States, the Commonwealth of Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, and any other territory or possession of the United States.

[24 FR 10788, Dec. 29, 1959, as amended at 52 FR 29370, Aug. 7, 1987; 57 FR 54489, Nov. 19, 1992; 68 FR 37915, June 25, 2003; 69 FR 65059, Nov. 10, 2004; 70 FR 72886, Dec. 8, 2005; 71 FR 75654, Dec. 18, 2006]

§ 319.56-2 Restrictions on entry of fruits and vegetables.

(a) All importations of fruits and vegetables must be free from plant debris, as defined in § 319.56-1.

(b) *General permit for dried, cured, or processed fruits and vegetables.* Dried, cured, or processed fruits and vegetables (except frozen fruits and vegetables), including cured figs and dates, raisins, nuts, and dried beans and peas, may be imported without permit or other compliance with the regulations in this subpart: *Provided*, That any such articles may be made subject to entry only under permit and on compliance with the safeguards to be prescribed therein, when it shall be determined by the Secretary of Agriculture that the condition of drying, curing, or processing to which they have been subjected may not entirely eliminate risk. Such determination with respect to any such articles shall become effective after due notice.

(c) *General permit for fruits and vegetables grown in Canada.* Fruits and vegetables grown in Canada may be imported into the United States without restriction under this subpart; provided, that:

(1) Consignments of *Allium* spp. consisting of the whole plant or above ground parts must be accompanied by a phytosanitary certificate issued by the NPPO of Canada with an additional declaration stating that the articles are free from *Acrolepiopsis assectella* (Zeller).

(2) Potatoes from Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road are prohibited importation into the United States in accordance with § 319.37-2 of this part.

(d) *General permit for fruits and vegetables grown in the British Virgin Islands.* Fruits and vegetables grown in the British Virgin Islands may be imported into the U.S. Virgin Islands without further permit other than the authorization contained in this paragraph but subject to the requirements of paragraph (a) of this section, and of §§ 319.56-5, 319.56-6, and 319.56-7, except that:

(1) Such fruits and vegetables are exempted from the notice of arrival requirements of § 319.56-5 when an inspector finds that equivalent information is obtainable from the U.S. Customs Service; and

(2) Mangoes grown in the British Virgin Islands are prohibited entry into the U.S. Virgin Islands.

(e) Any other fruit or vegetable, except those restricted to certain countries and districts by special quarantine,¹ other orders, or provisions of the regulations in this subpart² may be imported from any country under a permit issued in accordance with this subpart and upon compliance with the regulations in this subpart, at the ports authorized in the permit, if the U.S. Department of Agriculture, after reviewing evidence presented to it, is satisfied that the fruit or vegetable either:

(1) Is not attacked in the country of origin by quarantine pests;

(2) Has been treated or is to be treated for all quarantine pests in the country of origin, in accordance with conditions and procedures that may be prescribed by the Administrator;

(3) Is imported from a definite area or district in the country of origin that is free from all quarantine pests that attack the fruit or vegetable and its importation is in compliance with the criteria of paragraph (f) of this section; or

(4) Is imported from a definite area or district of the country of origin that is free from quarantine pests that attack the fruit or vegetable and the criteria of paragraph (f) of this section are met with regard to those quarantine pests, provided that all other quarantine pests that attack the fruit or vegetable in the area or district of the country of origin have been eliminated from the fruit or vegetable by treatment or any other procedures that may be prescribed by the Administrator.

(f) Before the Administrator may authorize importation of a fruit or vegetable under paragraphs (e)(3) or (4) of this section, he or she must determine

¹The importation of citrus fruits into the United States from eastern and southeastern Asia and certain other areas is restricted by the Citrus Fruit Quarantine, § 319.28.

²Fruits and vegetables from designated countries or localities that are subject to specific import requirements prescribed elsewhere in this subpart are not subject to the regulations in paragraph (e) of this section unless specified otherwise. Such fruits and vegetables are, however, subject to all other general requirements contained in other sections of this subpart.

that the fruit or vegetable is being imported from an area that is free of the pest or pests in accordance with the criteria for establishing freedom found in International Standard for Phytosanitary Measures Publication No. 4, "Requirements for the Establishment of Pest Free Areas." The international standard was established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization and is incorporated by reference in §300.5 of this chapter. APHIS must approve the survey protocol used to determine pest-free status, and pest-free areas are subject to audit by APHIS to verify their status. When used to authorize importation under paragraph (e)(3) of this section, the criteria must be applied to all quarantine pests that attack the fruit or vegetable; when used to authorize importation under paragraph (e)(4) of this section, the criteria must be applied to those particular quarantine pests from which the area or district is to be considered free.

(g) Each box of fruit or vegetables imported into the United States in accordance with paragraphs (e) or (f) of this section must be safeguarded from infestation while in transit to the United States through any area that has not been designated as free from quarantine pests that attack the fruit or vegetable. Each box of fruit or vegetables imported into the United States in accordance with paragraphs (e)(3) or (4) and (f) of this section must be clearly labeled with:

(1) The name of the orchard or grove of origin, or the name of the grower, and

(2) The name of the municipality and State in which it was produced, and

(3) The type and amount of fruit it contains.

(h) The Administrator has determined that the following areas in Mexico meet the criteria of paragraphs (e) and (f) of this section with regard to the plant pests *Ceratitis capitata*, *Anastrepha ludens*, *A. serpentina*, *A. obliqua*, and *A. fraterculus*: Comondu, La Paz, Loreto, Los Cabos, and Mulegé in the State of Baja California Sur; the municipalities of Bachiniva, Casas Grandes, Cuahutemoc, Guerrero, Namiquipa, and Nuevo Casas Grandes

in the State of Chihuahua; the municipalities of Ahome, Choix, El Fuerte, Guasave, and Sinaloa de Leyva in the State of Sinaloa; and the municipalities of Altar, Atil, Bacum, Benito Juárez, Caborca, Cajeme, Carbo, Empalme, Etchojoa, Guaymas, Hermosillo, Huatabampo, Navojoa, Pitiquito, Plutarco Elias Calles, Puerto Penasco, San Luis Rio Colorado, San Miguel, and San Ignacio Rio Muerto in the State of Sonora. Fruits and vegetables otherwise eligible for importation under this subpart may be imported from these areas without treatment for the pests named in this paragraph.

(i) Pending development of adequate treating facilities in Guam, fruits and vegetables that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a U.S. port of arrival where such treating facilities are available.

(j) The Administrator has determined that all Districts in Belize, all provinces in Chile except Arica, and the Department of Petén in Guatemala meet the criteria of paragraphs (e) and (f) of this section with regard to the insect pest Mediterranean fruit fly (Medfly) (*Ceratitis capitata* [Wiedemann]). Also, the Patagonia region of Argentina, including those areas along the valleys of the Rio Colorado and Rio Negro rivers and also including the provinces of Neuquen, Rio Negro, Chubut, Santa Cruz, and Tierra del Fuego, has been determined to meet the criteria of paragraphs (e) and (f) of this section with regard to Medfly and *Anastrepha* spp. fruit flies. Fruits and vegetables otherwise eligible for importation under this subpart may be imported from these areas without treatment for the specified pests.

(k) Any fruit or vegetable that is required by this subpart to be treated or subjected to other growing or inspection requirements to control one or more of the plant pests listed in §305.31(a) of this chapter as a condition

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of entry into the United States may instead be treated by irradiation in accordance with part 305 of this chapter.

(Approved by the Office of Management and Budget under control numbers 0579-0049 and 0579-0280)

[24 FR 10788, Dec. 29, 1959, as amended at 52 FR 29370, Aug. 7, 1987; 53 FR 10057, Mar. 29, 1988; 53 FR 27956, July 26, 1988; 54 FR 12873, Mar. 29, 1989; 56 FR 1731, Jan. 17, 1991; 56 FR 10790, Mar. 14, 1991; 57 FR 10976, Apr. 1, 1992; 58 FR 43497, Aug. 17, 1993; 58 FR 69179, Dec. 30, 1993; 59 FR 9382, Feb. 28, 1994; 62 FR 50235, 50238, Sept. 25, 1997; 64 FR 2994, Jan. 20, 1999; 66 FR 45158, Aug. 28, 2001; 67 FR 65029, Oct. 23, 2002; 68 FR 2684, Jan. 21, 2003; 68 FR 37916, June 25, 2003; 70 FR 33325, June 7, 2005; 70 FR 72887, Dec. 8, 2005; 71 FR 4464, Jan. 27, 2006; 71 FR 75654, Dec. 18, 2006]

EFFECTIVE DATE NOTE: At 71 FR 50328, Aug. 25, 2006, § 319.56-2 was amended in paragraph (c) by adding the words “, except that they are subject to the inspection and other requirements in § 319.56-6” after the word “subpart”, effective Nov. 24, 2006. At 71 FR 67436, Nov. 22, 2006, the effective date was delayed until Mar. 1, 2007.

§ 319.56-2a Permits required for entry of chestnuts and acorns and certain coconuts.

It has been determined that the drying and processing of chestnuts and acorns, and of coconuts imported into Guam from the Trust Territory, may not entirely eliminate risk of spread of injurious insects. Therefore, notice is hereby given that chestnuts and acorns of all varieties and species may be imported into any part of the United States from any foreign country and coconuts may be imported into Guam from the Trust Territory, only under permit and upon compliance with the safeguards prescribed therein pursuant to § 319.56-2.

§ 319.56-2b Administrative instructions; conditions governing the entry of acorns and chestnuts.

(a) *Countries other than Canada and Mexico.* Except for importations of acorns and chestnuts grown in and shipped from Canada and Mexico, acorns and chestnuts are permitted entry into the United States under permit, for purposes other than propagation, under the provisions of § 319.56 as follows:

(1) *Condition of entry.* Notwithstanding § 319.56-2(e) (1) and (2), all

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shipments of acorns and chestnuts are required to be treated as a condition of entry. Fumigation with methyl bromide in accordance with procedures described in this section is effective against the chestnut and acorn weevils, *Curculio elephas* (Cyllenhal) and *C. nucum* Linnaeus; the nut fruit tortrix, et al., *Laspeyresia splendana* (Hubner), *Laspeyresia* spp., and *Hemimene juliana* (Curtis); and other insect pests of chestnuts and acorns. Accordingly, this treatment is approved as a condition of entry in connection with the issuance of permits under § 319.56-3 for the importation of chestnuts and acorns from any country except Canada and Mexico.

(2) *Ports of entry.* Acorns and chestnuts to be offered for entry may be shipped from the country of origin to United States ports which are named in the permit.

(3) *Approved fumigation.* The approved treatment shall consist of fumigation with methyl bromide. The acorns and chestnuts may be fumigated in vacuum or normal atmospheric chambers, van containers, or tarpaulins that have been approved for that purpose by the Plant Protection and Quarantine Programs. When the fumigation is carried out under tarpaulins or in van containers, it must be accomplished in a manner satisfactory to the inspector by insuring adequate air and commodity temperatures, and proper volatilization, distribution, and concentration of the fumigant. Fumigation with methyl bromide shall be in accordance with the following schedules:

(i) In chamber at normal atmospheric pressure (NAP):

Temperature (°F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
90-96	4	3
80-89	4	4
70-79	5	4
60-69	5	5
50-59	6	5
40-49	6	6

(ii) In chamber at 26" vacuum:

Temperature (°F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
80-96	3	2
70-79	4	2

Temperature (°F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
60-69	4	3
50-59	4	4
40-49	4	5

(iii) In van containers or under tarpaulins: Fumiscope readings are required to assure minimum gas concentration as specified in this paragraph (a)(3)(iii) of this section at the end of the first one-half hour and at the completion of the exposure period.

Temperature (°F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
90-96 (minimum concentration first ½ hour—58 oz.). (minimum concentration at completion—34 oz.).	4	3
80-89 (minimum concentration first ½ hour—58 oz.). (minimum concentration at completion—32 oz.).	4	4
70-79 (minimum concentration first ½ hour—72 oz.). (minimum concentration at completion—42 oz.).	5	4
60-69 (minimum concentration first ½ hour—72 oz.). (minimum concentration at completion—40 oz.).	5	5
50-59 (minimum concentration first ½ hour—85 oz.). (minimum concentration at completion—50 oz.).	6	5
40-49 (minimum concentration first ½ hour—85 oz.). (minimum concentration at completion—48 oz.).	6	6

The fumigation temperatures used in these treatment schedules shall be that of the nut kernels. Acorns and chestnuts fumigated in van containers or under tarpaulins must be stacked in the container to provide for circulation of the fumigant under the load. Refrigerated

van containers fitted with floor grooves meet this requirement. Van containers not fitted with floor grooves and tarpaulins should have provision for air circulation under the load by use of dunnage or pallets. Minimum concentrations of fumigant during the exposure period shall be maintained as specified in the treatment schedules. Because of the presence of various gases emitted by the nuts, special filtering procedures will be necessary for determination of the actual fumigant concentrations. At the end of the treatment exposure period the nuts shall be aerated for a minimum of one-half hour.

(4) *Supervision of treatment.* The treatment approved in this section must be conducted under the supervision of an inspector of the Plant Protection and Quarantine Programs. The inspector shall require such safeguards in each specific case for unloading and handling of the nuts at the port of entry, transportation of the nuts from the place of unloading to the treatment facilities, and their handling during fumigation and aeration as required by paragraph (a)(3) of this section, as he deems necessary to prevent the spread of plant pests and assure compliance with the provisions of this subpart. If any part of the treatment is conducted in the country of origin, the person or organization requesting the service must enter into a formal agreement with the Plant Protection and Quarantine Programs to secure the services of an inspector.

(5) *Costs.* All costs of treatment, required safeguards, and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the commodity or his representative.

(6) *Department not responsible for damages.* The treatment prescribed in paragraph (a)(3) of this section is judged from experimental tests to be safe for use with acorns and chestnuts. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment, or because of safeguards required under paragraph (a)(4) of this section.

(b) *Canada and Mexico.* Acorns and chestnuts grown in and shipped from Canada and Mexico for purposes other than propagation are enterable without permit or further restriction under this subpart.

(c) *Nuts for propagation.* Acorns and chestnuts from any country may be imported for purposes of propagation only in accordance with § 319.37.

[37 FR 19799, Sept. 22, 1972, as amended at 68 FR 37916, June 25, 2003]

§ 319.56–2c Administrative instructions authorizing the importation of frozen fruits and vegetables.

(a) The Administrator, under authority contained in § 319.56–2, prescribes quick freezing in accordance with part 305 of this chapter as a satisfactory treatment for all fruits and vegetables enterable under permit under § 319.56. Such frozen fruits and vegetables may be imported from any country under permit and in compliance with §§ 319.56–1 through 319.56–7 (exclusive of non-related administrative instructions), at such ports as authorized in the permits.

(b) The importation from foreign countries of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack in the area of origin, by plant pests that may not, in the judgment of the Administrator, be destroyed by quick freezing.

[70 FR 33325, June 7, 2005]

§ 319.56–2d Administrative instructions for cold treatments of certain imported fruits.

(a) *Treatments authorized.* Fresh fruits imported in accordance with this subpart and required under this subpart to receive cold treatment as a condition of entry must be cold treated in accordance with part 305 of this chapter. The cold treatments listed in part 305 of this chapter are authorized for any fruit required to be cold treated under this subpart.

(b) *Place and manner of treatments—(1) Places of precooling and refrigeration.* Refrigeration may be conducted while the fruit is on shipboard in transit to the United States. If not so refrigerated, the fruit must be both precooled and refrigerated after arrival

only in cold storage warehouses approved by the Administrator and located in the area north of 39° latitude and east of 104° longitude or at one of the following ports: The maritime ports of Wilmington, NC, Seattle, WA, Corpus Christi, TX, and Gulfport, MS; Seattle-Tacoma International Airport, Seattle, WA; Hartsfield-Atlanta International Airport, Atlanta, GA; and Washington Dulles International Airport, Chantilly, VA. Fruit that is to be refrigerated in transit must be precooled either at a dockside refrigeration plant prior to loading aboard the carrying vessel, or aboard the carrying vessel. Refrigeration must be completed in the container, compartment, or room in which it is begun.

(2) *Precooling of fruit before departure.* Fruit which is to be refrigerated in transit must be precooled to the temperature designated in or under paragraph (a) of this section. The precooling may be conducted in accordance with either paragraph (b)(2) (i) or (ii) of this section:

(i) Fruit may be precooled at a dockside refrigeration plant prior to loading aboard the carrying vessel. Such fruit shall be precooled to a temperature at which it can be transferred to the refrigerated compartments on such vessel without a rise above the maximum temperature prescribed in or under paragraph (a) of this section. A responsible official of the Department of Agriculture of the country of origin shall sample fruit temperatures in all sections of the lot of fruit until he is satisfied that complete precooling has been accomplished in accordance with this section and shall issue a certificate to that effect. As the loading proceeds the certifying official shall take frequent temperature readings of individual boxes of fruit. A record of such temperature readings shall accompany the certificate.

(ii) Fruit may be precooled aboard the carrying vessel. Such fruit shall be precooled in the same refrigerated compartments in which it is to be refrigerated. The boxes of the fruit shall be spaced by horizontal wooden strips, so that each has at least 1 inch of clearance above and below to allow free circulation of the cooling air. At least 2 inches of clearance shall be allowed

between stacks of the fruit. Carriers desiring consideration of alternate spacing arrangements may apply to the Plant Protection and Quarantine Programs.

(3) *Refrigeration in transit.* (i) Refrigeration in transit shall consist of holding the fruit temperature at or below the maximum temperature level for the number of days prescribed in or under paragraph (a) of this section. A continuous, automatic temperature record under lock shall be maintained from at least four locations to be designated in each refrigerated compartment by an inspector of the Plant Protection and Quarantine Programs. In large refrigerated compartments additional temperature elements may be required. Charts from the temperature recording apparatus shall be made readily available to an inspector of such Plant Protection and Quarantine Programs at the port of arrival.

(ii) Refrigeration shall begin when the loading of precooled fruit has been completed or when precooling aboard the vessel has been completed. Refrigeration shall continue until the vessel arrives at the port of destination and the fruit is released for unloading by an inspector of the Plant Protection and Quarantine Programs, even though this may prolong the refrigeration beyond the required period. At least once during every 24-hour period, the responsible ship's officer shall sign the temperature chart, noting thereon the date and time.

(4) *Safeguarding untreated fruit.* Whenever fruit is offered for entry as cold treated in transit and it cannot be established to the satisfaction of such inspector that the fruit has received the required cold treatment, such safeguards against the spread of fruitfly infestation as the inspector may prescribe shall be immediately applied.

(5) *Cold treatment after arrival—(i) Delivery.* Fruit to be both precooled and refrigerated after arrival in the United States shall be delivered under the supervision of an inspector of the Plant Protection and Quarantine Programs to the approved cold storage warehouse where such treatment is to be conducted.

(ii) *Precooling and refrigeration.* The fruit must arrive at a temperature suf-

ficiently low to prevent insect activity and shall be promptly precooled and refrigerated. An automatic, continuous temperature record is required of each refrigeration, like that prescribed in paragraph (b)(3) of this section for refrigeration in transit. The number of records required will be designated by the inspector for each refrigeration, depending upon the circumstances of each operation.

(iii) *Customs.* Shipments offered for entry before cold treatment may be allowed to leave customs custody under redelivery bond for cold treatment. Final release of the shipment by the U.S. Customs Service, or, in the case of Guam, by the Customs officer of the Government of Guam, will be effected after the inspector has notified the said Customs official that the required cold treatment has been given.

(iv) *Special requirements for the maritime port of Wilmington, NC.* Shipments of fruit arriving at the maritime port of Wilmington, NC, for cold treatment, in addition to meeting all of the requirements in paragraphs (b)(5)(i) through (b)(5)(iii) of this section, must meet the following special conditions:

(A) Bulk shipments (those shipments which are stowed and unloaded by the case or bin) of fruit must arrive in fruit fly-proof packaging that prevents the escape of adult, larval, or pupal fruit flies.

(B) Bulk and containerized shipments of fruit must be cold-treated within the area over which the U.S. Customs Service is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

(C) Advance reservations for cold treatment space must be made prior to the departure of a shipment from its port of origin.

(D) The cold treatment facility must remain locked during non-working hours.

(v) *Special requirements for the maritime port of Seattle, WA.* Shipments of fruit arriving at the maritime port of Seattle, WA, for cold treatment, in addition to meeting all of the requirements in paragraphs (b)(5)(i) through (b)(5)(iii) of this section, must meet the following special conditions:

(A) Bulk shipments (those shipments which are stowed and unloaded by the case or bin) of fruit must arrive in fruit fly-proof packaging that prevents the escape of adult, larval, or pupal fruit flies.

(B) Bulk and containerized shipments of fruit must be cold-treated within the area over which the U.S. Customs Service is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

(C) Advance reservations for cold treatment space must be made prior to the departure of a shipment from its port of origin.

(D) The cold treatment facility must remain locked during non-working hours.

(E) Blacklight or sticky paper must be used within the cold treatment facility, and other trapping methods, including Jackson/methyl eugenol and McPhail traps, must be used within the 4 square miles surrounding the cold treatment facility.

(F) The cold treatment facility must have contingency plans, approved by the Administrator, for safely destroying or disposing of fruit.

(vi) *Special requirements for the airports of Atlanta, GA, and Seattle, WA.* Shipments of fruit arriving at the airports of Atlanta, GA, and Seattle, WA, for cold treatment, in addition to meeting all of the requirements in paragraphs (b)(5)(i) through (b)(5)(iii) of this section, must meet the following special conditions:

(A) Bulk and containerized shipments of fruit must arrive in fruit fly-proof packaging that prevents the escape of adult, larval, or pupal fruit flies.

(B) Bulk and containerized shipments of fruit arriving for cold treatment must be cold treated within the area over which the U.S. Customs Service is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

(C) The cold treatment facility and Plant Protection and Quarantine must agree in advance on the route by which shipments are allowed to move between the aircraft on which they arrived at

the airport and the cold treatment facility. The movement of shipments from aircraft to cold treatment facility will not be allowed until an acceptable route has been agreed upon.

(D) Advance reservations for cold treatment space must be made prior to the departure of a shipment from its port of origin.

(E) The cold treatment facility must remain locked during non-working hours.

(F) Blacklight or sticky paper must be used within the cold treatment facility, and other trapping methods, including Jackson/methyl eugenol and McPhail traps, must be used within the 4 square miles surrounding the cold treatment facility.

(G) The cold treatment facility must have contingency plans, approved by the Administrator, for safely destroying or disposing of fruit.

(vii) *Special requirements for the maritime ports of Gulfport, MS, and Corpus Christi, TX.* Shipments of fruit arriving at the ports of Gulfport, MS, and Corpus Christi, TX, for cold treatment, in addition to meeting all of the requirements in paragraphs (b)(5)(i) through (b)(5)(iii) of this section, must meet the following special conditions:

(A) All fruit entering the port for cold treatment must move in maritime containers. No bulk shipments (those shipments which are stowed and unloaded by the case or bin) are permitted.

(B) Within the container, the fruit intended for cold treatment must be enclosed in fruit fly-proof packaging that prevents the escape of adult, larval, or pupal fruit flies.

(C) All shipments of fruit arriving at the port for cold treatment must be cold treated within the area over which the U.S. Customs Service is assigned the authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws in force.

(D) The cold treatment facility and Plant Protection and Quarantine must agree in advance on the route by which shipments are allowed to move between the vessel on which they arrived at the port and the cold treatment facility. The movement of shipments from vessel to cold treatment facility will not

be allowed until an acceptable route has been agreed upon.

(E) Advance reservations for cold treatment space at the port must be made prior to the departure of a shipment from its port of origin.

(F) Devanning, the unloading of fruit from containers into the cold treatment facility, must adhere to the following requirements:

(1) All containers must be unloaded within the cold treatment facility; and

(2) Untreated fruit may not be exposed to the outdoors under any circumstances.

(G) The cold treatment facility must remain locked during non-working hours.

(H) Blacklights or sticky paper must be used within the cold treatment facility, and other trapping methods, including Jackson/methyl eugenol and McPhail traps, must be used within the 4 square miles surrounding the cold treatment facility at the maritime port of Gulfport, MS, and within the 5 square miles surrounding the cold treatment facility at the maritime port of Corpus Christi, TX.

(I) During cold treatment, a backup system must be available to cold treat the shipments of fruit should the primary system malfunction. The facility must also have one or more reefers (cold holding rooms) and methods of identifying lots of treated and untreated fruits.

(J) The cold treatment facility must have the ability to conduct methyl bromide fumigations on-site.

(K) The cold treatment facility must have contingency plans, approved by the Administrator, for safely destroying or disposing of fruit.

(6) *Containers and season of arrival.* Containers should be uniform and suitably constructed to maintain firm stacking in the compartment throughout the voyage. Shipments may be made during any season of the year. Untreated fruit arriving in broken containers must be immediately repacked under the supervision of an inspector or the contents must be immediately destroyed in a manner satisfactory to the inspector.

(7) *Procedures in country of origin.* (i) By arrangement between the Administrator and the equivalent official in the

country of origin, certifying officials will be designated by the country of origin. Their signatures shall be filed with the Plant Protection and Quarantine Programs.

(ii) Each container of fruit intended for intransit refrigeration shall be stamped or marked as it is loaded on the carrying vessel so that it can be readily identified as such. Fruit being shipped under permit to be completely cold treated at the Port of New York or other subsequently designated northern ports shall not be so marked.

(iii) Fruit precooled at a dockside refrigeration plant shall be transferred to the refrigerated compartments on the carrying vessel without a rise in temperature above the maximum for the desired refrigeration. When this transfer has been accomplished, the certifying official shall issue a certificate of precooling.

(iv) Fruit to be precooled on the carrying vessel in the refrigerated compartments shall be loaded under supervision of the certifying official to assure that all packages have the proper clearance on all sides.

(v) Fruit in transit for cold treatment after arrival shall be loaded in a separate compartment and segregated from any fruit that is being refrigerated in transit.

(vi) Fruit not intended for any phase of cold treatment shall not be loaded in the same refrigerated compartment with fruit to be given such cold treatment.

(vii) The certifying official shall calibrate the elements of the temperature recording instruments not more than 3 days prior to the loading of fruit, by immersing them in a 32 °F. mixture of crushed ice and fresh water, and recording their deviation from 32 °F. He shall also supervise the placement of the temperature elements in the proper places in the cargo of fruit.

(viii) The certifying official shall record the following data, noting the date and time, on the temperature chart: (a) Commencement of loading of each compartment, (b) insertion of the sensing elements into the fruit, and (c) completion of loading of each compartment.

(ix) The certificate of precooling, when required, shall be issued in quadruplicate, to cover the cargo of one vessel. The original certificate shall be airmailed to the inspector of the Plant Protection and Quarantine Programs in charge at the port of destination. One copy shall accompany the carrying vessel. The third copy shall be mailed to the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, DC 20520. A record showing calibration of the elements of the temperature recording instruments, as required in paragraph (b)(7)(vii) of this section shall be attached to each certificate, along with any record of the fruit temperature readings required in paragraph (b)(2)(i) of this section. The certificate shall also show the identifying stamp or mark placed on all containers of fruit undergoing intransit refrigeration.

(8) *Inspection of fruits after cold treatment for Mediterranean fruit fly.* An inspector will sample and cut fruit from each shipment cold treated for Mediterranean fruit fly (Medfly) to monitor treatment effectiveness. If a single live Medfly in any stage of development is found, the shipment will be held until an investigation is completed and appropriate remedial actions have been implemented. If APHIS determines at any time that the safeguards contained in this section do not appear to be effective against the Medfly, APHIS may suspend the importation of fruits from the originating country and conduct an investigation into the cause of the deficiency.

(c) *Approval of precooling plants, refrigerated compartments, warehouses.* All precooling plants in the country of origin, the refrigerated compartments on the carrying vessels, and cold storage warehouses at the Port of New York or subsequently designated northern ports must have prior approval of the Administrator before any phase of cold treatment is begun. Requests for such approval shall be made to the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture,

Washington, DC 20250.³ Hereafter before a shipboard refrigeration installation will be approved it must first be certified by the American Bureau of Shipping or a comparable agency as in good order, with the insulated spaces clean and otherwise in satisfactory condition.

(d) *Caution and disclaimer.* The cold treatments required for the entry of fruit are considered necessary for the elimination of plant pests, and no liability shall attach to the U.S. Department of Agriculture or to any officer or representative of that Department in the event injury results to fruit offered for entry in accordance with these instructions. In prescribing cold treatments of certain fruits, it should be emphasized that inexactness and carelessness in applying the treatments may result in injury to the fruit, or its rejection for entry. Oranges have been successfully cold treated for the false codling moth in commercial shipments at the temperature prescribed in paragraph (a)(2)(v) of this section. Since commercial varieties of oranges show a wide variation in acceptable refrigeration temperatures, it is recommended that extensive tests be made with each variety in the country of origin before shipping in commercial quantities.

[31 FR 16601, Dec. 29, 1966; as amended at 32 FR 12832, Sept. 8, 1967; 32 FR 13215, Sept. 19, 1967; 35 FR 5031, Mar. 25, 1970; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 59 FR 40796, Aug. 10, 1994; 59 FR 67610, Dec. 30, 1994; 61 FR 47666, Sept. 10, 1996; 67 FR 63536, Oct. 15, 2002; 68 FR 2686, Jan. 21, 2003; 68 FR 37916, June 25, 2003; 68 FR 63983, Nov. 12, 2003; 70 FR 33325, June 7, 2005; 70 FR 72887, Dec. 8, 2005]

§ 319.56–2e Administrative instructions; conditions governing the entry of cipollini from Morocco.

(a) Shipments of cipollini (*Muscari comosum*) from Morocco have frequently been found infested at time of entry with an injurious insect, *Exosoma lusitanica*, not known to occur in the United States. The limited type of inspection at our disposal is not

³Applications for permits to import fruit under this subpart may be made to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737–1236.

considered adequate to detect all cases of infestation and, since the effectiveness of methyl bromide fumigation in freeing this product from the insect in question is now well established, it has been decided to require this fumigation as a condition of entry for future shipments.

(b) On and after December 7, 1939, therefore, fumigation with methyl bromide will be a condition of entry for all shipments of cipollini from Morocco. This treatment shall be carried out under the supervision of a plant quarantine inspector at the expense of the importer, and release of the shipment will be withheld until the treatment has been completed. In addition to fumigation only such inspection will be given as the inspector may judge necessary from time to time to determine pest conditions on arrival or to ensure the effectiveness of the treatment.

(c) The entry of cipollini from Morocco may be made only through the ports of New York and Boston at which ports facilities for vacuum fumigation with methyl bromide, as herein required, are available.

[24 FR 10788, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985; 70 FR 33325, June 7, 2005]

§ 319.56–2f Conditions governing the entry of baby corn and baby carrots from Zambia.

(a) Immature, dehusked “baby” sweet corn (*Zea mays* L.) measuring 10 to 25 millimeters (0.39 to 0.98 inches) in diameter and 60 to 105 millimeters (2.36 to 4.13 inches) in length may be imported into the continental United States from Zambia only under the following conditions:

(1) The production site, which is a field, where the corn has been grown must have been inspected at least once during the growing season and before harvest for the following pest: *Phomopsis jaczewskii*.

(2) After harvest, the corn must be inspected by Zambia’s national plant protection organization (NPPO) and found free of the pests listed in paragraph (a)(1) of this section before the corn may be shipped to the continental United States.

(3) The corn must be inspected at the port of first arrival as provided in § 319.56–6.

(4) Each shipment must be accompanied by a phytosanitary certificate issued by the NPPO of Zambia that includes an additional declaration stating that the corn has been inspected and found free of *Phomopsis jaczewskii* based on field and packinghouse inspections.

(5) The corn may be imported in commercial shipments only.

(b) Immature “baby” carrots (*Daucus carota* L. ssp. *sativus*) for consumption measuring 10 to 18 millimeters (0.39 to 0.71 inches) in diameter and 50 to 105 millimeters (1.97 to 4.13 inches) in length may be imported into the continental United States from Zambia only under the following conditions:

(1) The production site, which is a field, where the carrots have been grown must have been inspected at least once during the growing season and before harvest for the following pest: *Meloidogyne ethiopica*.

(2) After harvest, the carrots must be inspected by the NPPO of Zambia and found free of the pests listed in paragraph (b)(1) of this section before the carrots may be shipped to the continental United States.

(3) The carrots must be inspected at the port of first arrival as provided in § 319.56–6.

(4) Each shipment must be accompanied by a phytosanitary certificate issued by the NPPO of Zambia that includes an additional declaration stating that the carrots have been inspected and found free of *Meloidogyne ethiopica* based on field and packinghouse inspections.

(5) The carrots must be free from leaves and soil.

(6) The carrots may be imported in commercial shipments only.

[71 FR 29769, May 24, 2006]

§ 319.56–2g Administrative instructions prescribing method of treatment of garlic from specified countries.

(a) Except as otherwise provided in these administrative instructions, fumigation with methyl bromide in vacuum fumigation chambers, in accordance with part 305 of this chapter, is a

condition of entry under permit for all shipments of garlic (*Allium sativum*) from Algeria, Armenia, Austria, Azerbaijan, Czech Republic, Egypt, Estonia, France, Georgia, Germany, Greece, Hungary, Iran, Israel, Italy, Latvia, Lithuania, Moldova, Morocco, Portugal, Romania, the area of the Russian Federation west of the Ural Mountains, Slovakia, South Africa (Republic of), Spain, Switzerland, Syria, Turkey, Ukraine, and the area of the former Yugoslavia. Fumigation is to be carried out under the supervision of a plant quarantine inspector and at the expense of the importer. While it is believed that the garlic will be unaffected by the fumigation, the treatment will be at the importer's risk. Such entry will be limited to ports named in the permits, where approved facilities for vacuum fumigation with methyl bromide are available.

(b)(1) The following alternate procedure is approved by the Administrator as a condition of entry under permit for shipments of garlic (*Allium sativum*) from Italy and Spain:

(i) A certificate shall be obtained from the appropriate phytosanitary official of the country of origin to the effect that such garlic is free of living stages of *Brachymerus* spp. and *Dyspessa ulula* (Bkh.), said certification to be based on field inspection and certification and subsequent reexamination at the port of departure prior to exportation. The phytosanitary certificate to be issued by such official shall show the shipment to be either initially free from these pests or to have been fumigated.

(ii) The original copy of the phytosanitary certificate shall be attached to the manifest accompanying the shipment. However, with the consent of the Plant Quarantine inspector, the importer may arrange to have the original phytosanitary certificate mailed direct to the Inspector in Charge, Plant Protection and Quarantine Programs, at the port of entry, if this will expedite inspection and release of certified shipments. If such an arrangement is made, a copy of the phytosanitary certificate shall be attached to the manifest accompanying the shipment.

(iii) Shipments of certified Italian or Spanish garlic will be subject to inspection upon arrival in the United States and if found infested with living stages of *Brachymerus* spp. or *Dyspessa ulula* (Bkh.) shall be fumigated in accordance with paragraph (a) of this section.

(2) The entry of certified garlic under the alternate procedure provided for in paragraph (b)(1) of this section will be limited to the ports named in paragraph (a)(1) of this section or such other ports as may subsequently be named in the permits.

(3) Continuance of the alternate procedure provided for in paragraph (b)(1) of this section for the importation of Italian or Spanish garlic is contingent upon the satisfactory observance of such procedure by the respective countries of origin.

[24 FR 10788, Dec. 29, 1959, as amended at 35 FR 18385, Dec. 3, 1970; 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 62 FR 50235, Sept. 25, 1997; 70 FR 33325, June 7, 2005; 70 FR 72887, Dec. 8, 2005]

§ 319.56-2h Regulations governing the entry of grapes from Australia.

(a) *Importations allowed.* (1) Grapes from Australia may be imported into the United States only if they are inspected by an inspector of the Animal and Plant Health Inspection Service [APHIS], either in Australia or the United States, and treated with an authorized treatment under the supervision of an APHIS inspector for the following pests: the Mediterranean fruit fly (*Ceratitidis capitata*), the Queensland fruit fly (*Dacus tryoni*), and the light brown apple moth (*Epiphyas postvittana*).

(2) If an APHIS inspector finds evidence of any other insect pests for which a treatment authorized in part 305 of this chapter is available, the grapes will remain eligible for importation into the United States only if they are treated for the pests in Australia, or at their first port of arrival in the United States, under the supervision of an APHIS inspector.

(b) *Authorized treatments.* Authorized treatments are listed in part 305 of this chapter.

(c) *Trust Fund Agreement.* Grapes that undergo the fumigation phase of their

treatment in Australia may be imported into the United States only if the national plant protection service of Australia has entered into a trust fund agreement with APHIS. This agreement requires the national plant protection service of Australia to pay in advance all costs that APHIS estimates it will incur in providing services in Australia. These costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses, and other incidental expenses incurred by APHIS inspectors in performing these services. The agreement requires the national plant protection service of Australia to deposit a certified or cashier's check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the national plant protection service of Australia to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the grapes may be imported. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the national plant protection service of Australia, or held on account until needed.

(d) *Department not responsible for damage.* The treatment for grapes from Australia prescribed in part 305 of this chapter is judged from experimental tests to be safe. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment.

[55 FR 25953, June 26, 1990, as amended at 67 FR 8465, Feb. 25, 2002; 70 FR 33325, June 7, 2005; 70 FR 40879, July 15, 2005]

§ 319.56–2i Administrative instructions prescribing treatments for mangoes from Central America, South America, and the West Indies.

(a) *Authorized treatments.* Treatment with an authorized treatment listed in part 305 of this chapter will meet the treatment requirements imposed under § 319.56–2 as a condition for the importation into the United States of mangoes from Central America, South America, and the West Indies.

(b) *Department not responsible for damage.* The treatments for mangoes prescribed in part 305 of this chapter are judged from experimental tests to be safe. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment.

[65 FR 37669, June 15, 2000, as amended at 67 FR 8466, Feb. 25, 2002; 70 FR 33325, June 7, 2005]

§ 319.56–2j Conditions governing the entry of apples and pears from Australia (including Tasmania) and New Zealand.⁴

Apples and pears from Australia (including Tasmania) and New Zealand may be imported only in accordance with § 319.56–2(e) (2) or (3) and under permit and in compliance with this section and the other requirements of this subpart.

(a) *Conditions of entry—(1) Statistical sample inspection.* A biometrically designed statistical sample will be taken under § 319.56–6 by the inspector of the plant protection and quarantine programs from each shipment⁵ of apples and each shipment of pears moved from New Zealand or Australia (including Tasmania), that are offered for entry into the United States and, if inspection of such sample discloses that pests of the family Tortricidae (fruit-leaf roller complex) which are dangerous and destructive pests of apples and pears are not present in the shipment sampled and the shipment therefore does not present a risk of introducing such pest, such fruit may be imported under § 319.56–2(e)(2) without treatment as prescribed in paragraph (a)(2) of this section. If any such pests are found on such inspection the shipment must be treated as prescribed in paragraph (a)(2) of this section.

⁴Apples and pears from Australia (excluding Tasmania) where certain tropical fruit flies occur are also subject to the irradiation requirements of part 305 of this chapter or the cold treatment requirements of § 319.56–2d.

⁵A shipment is defined as all of a type (genus) of fruit from the same country of origin offered at a U.S. port and from a single carrier, regardless of marks and numbers, growers' lots, Customs entries, or numbers of importers involved.

(2) *Approved fumigation.* Fumigation with methyl bromide must be in accordance with part 305 of this chapter. The fruit may be fumigated in normal atmospheric chambers, under tarpaulins, in van trucks or other enclosures that have been approved for that purpose by an inspector of the plant protection and quarantine programs. When the fumigation is carried out, it must be accomplished in a manner satisfactory to the inspector to insure adequate air and commodity temperatures, and proper volatilization, distribution, and concentration of the fumigant, for effective destruction of all such pests present. Apples and pears to be fumigated may be packed in wooden crates, fiberboard cartons, or other gas-permeable containers. The fruit must be packed so as to provide for maximum distribution of the fumigant. If the fruit is packed in a gas-imperious liner, the liner must be perforated to provide for the entry and aeration of the methyl bromide gas. The individual fruit may be wrapped with tissue paper. Cubic feet of space under fumigation shall include the load of fruit to be fumigated. The exposure period shall begin when all the fumigant which has been introduced into the chamber or enclosure has been volatilized. The fumigation temperatures required in these treatments shall be that of the pulp temperatures of the fruit. Fumigation with methyl bromide shall be in accordance with the following schedules:

(i) Chamber:¹

MB at NAP	1½ lb for 2 hours at 80–89 °F.
	2 lb for 2 hours at 70°–79 °F.
	2½ lb for 2 hours at 60–69 °F.
	3 lb for 2 hours at 50–59 °F.
	4 lb for 2 hours at 40–49 °F.

(ii) Tarpaulin truck van and refrigerator railway car fumigation:

MB at NAP	1½ lb/1,000 ft ³ for 2½ hours at 80–89 °F. (18 oz minimum gas concentration at ½ hour) (14 oz minimum gas concentration at 2½ hours).
	2 lbs/1,000 ft ³ for 2½ hours at 70–79 °F. (25 oz minimum gas concentration at ½ hour) (18 oz minimum gas concentration at 2½ hours).
	2½ lbs/1,000 ft ³ for 2½ hours at 60–69 °F. (31 oz minimum gas concentration at ½ hour) (24 oz minimum gas concentration at 2½ hours).
	3 lbs/1,000 ft ³ for 2½ hours at 50–59 °F. (36 oz minimum gas concentration at ½ hour) (28 oz. minimum gas concentration at 2½ hours).
	4 lb/1,000 ft ³ for 2½ hours at 40–49 °F. (45 oz minimum gas concentration at ½ hour) (34 oz minimum gas concentration at 2½ hours).

(3) *Ports of entry.* Apples and pears to be offered for entry under this section may be shipped to any U.S. port where inspectors are located and which are named in the permit.

(4) *Supervision of treatment.* The treatment approved in part 305 of this chapter must be conducted under the supervision of an inspector of the plant protection and quarantine programs. The inspector shall require such safeguards in each specific case for unloading and handling of the fruit at the port of entry, transportation of the fruit from the place of unloading to the treatment facilities, and its handling during fumigation and aeration as required by the PPQ Treatment Manual, as he or she deems necessary to prevent the spread of quarantine pests and assure compliance with the provisions of this subpart.

(5) *Costs.* All costs of treatment, required safeguards, and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruit or his or her representative.

(6) *Department not responsible for damages.* The treatment prescribed in part 305 of this chapter is judged from experimental tests and uses for quarantine purposes to be safe for fumigation of apples and pears. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment or because

¹MB=methyl bromide; NAP=normal atmospheric pressure.

of safeguards required under paragraph (a)(4) of this section.

[38 FR 9005, Apr. 9, 1973, as amended at 47 FR 13320, Mar. 30, 1982. Redesignated at 50 FR 9788, Mar. 12, 1985, as amended at 68 FR 37917, June 25, 2003; 70 FR 33325, June 7, 2005; 70 FR 72887, Dec. 8, 2005]

§ 319.56-2k Administrative instructions prescribing method of fumigation of field-grown grapes from specified countries.

Approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with part 305 of this chapter, is hereby prescribed as a condition of entry under permit for all shipments of field-grown grapes from the continental countries of Asia, Europe, North Africa, and the Near East listed in paragraph (a) of this section. This fumigation shall be in addition to other conditions of entry for field-grown grapes from the areas named.

(a) *Continental countries of Asia, Europe, North Africa, and the Near East.* The term "continental countries of Asia, Europe, North Africa, and the Near East" means Algeria, Armenia, Austria, Azerbaijan, Belarus, Bulgaria, Cyprus, Egypt, Estonia, France, Georgia, Germany, Greece, Hungary, Israel, Italy, Kazakhstan, Kyrgyzstan, Latvia, Libya, Lithuania, Luxembourg, Portugal, Republic of Moldova, Russian Federation, Spain, Switzerland, Syria, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

(b) *Ports of entry.* Grapes to be offered for entry must be shipped from the country of origin to New York or such other North Atlantic ports as may be named in the permit.

(c) *Precooling of fruit.* Grapes to be offered for entry must be shipped under refrigeration and the fruit may not be removed from the vessel until the inspector has satisfied himself that this requirement has been complied with and that the fruit can be moved promptly for treatment without danger of plant pest dissemination.⁶

⁶Grapes from countries where the Mediterranean fruit fly occurs are subject to the cold treatment as described in § 319.56-2d. Under certain conditions such treatment may be effected in transit or upon arrival at the port of New York.

(d) *Approved fumigation.* Approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The fumigation may also be accomplished under tarpaulins in a manner, satisfactory to the inspector, that will insure adequate air and fruit temperatures, volatilization, distribution, and concentration of the fumigant. Such fumigation shall be in accordance with part 305 of this chapter.

(e) *Supervision of fumigation.* Inspectors of the Plant Protection and Quarantine Programs shall supervise the fumigation of grapes and shall prescribe such safeguards as may be necessary for unloading, handling, and transportation preparatory to fumigation or other treatment. The final release of the fruit for entry into the United States will be conditioned upon compliance with prescribed safeguards and required treatments.

(f) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the grapes or his representative.

(g) *Department not responsible for damage.* The treatments prescribed in part 305 of this chapter are judged from experimental tests to be safe for use with field-grown grapes. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (e) of this section or in the precooling of fruit required prior to unloading from the vessel.

[24 FR 10788, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985, as amended at 68 FR 37917, June 25, 2003; 70 FR 33325, June 7, 2005; 70 FR 72887, Dec. 8, 2005]

§ 319.56-2l Administrative instructions prescribing method of treatment of imported yams.

(a) *Fumigation upon arrival.* Except as otherwise provided in paragraph (b) of this section, approved fumigation with methyl bromide at normal atmospheric

pressure, in accordance with the following procedure, upon arrival at the port of entry, is hereby prescribed as a condition of importation under permit under § 319.56-2 for shipments of yams from all foreign countries.

(1) *Ports of entry.* Yams to be offered for entry may be shipped, under permit under § 319.56-2, direct from the country of origin to ports in the United States where approved fumigation facilities are available.

(2) *Approved fumigation.* (i) The approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure, in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The dosage shall be applied at the following rates:

Temperature, (°F.)	Dosage (pounds of methyl bromide per 1,000 cubic feet)	Exposure period (hours)
90-96	2.5	4
80-89	3.0	4
70-79	3.5	4

(ii) Yams to be fumigated may be packed in slatted crates or other gas-permeable containers. The fumigation chamber shall not be loaded to more than two-thirds of its capacity. The four-hour exposure period shall begin when all the fumigant has been introduced into the chamber and volatilized. Cubic feet of space shall include the load of yams to be fumigated. The required temperatures apply to both the air and the yams. Good circulation above and below the load shall be provided as soon as the yams are loaded in the chamber and shall continue during the full period of fumigation and until the yams have been removed to a well-ventilated location. Fumigation of yams below the minimum temperature prescribed in the fumigation schedule may result in injury to the yams and should be avoided. Yams are sensitive to bruising and should be carefully packed to prevent this. At the same time they should be given as much aeration as possible.

(3) *Other conditions.* (i) Inspectors of the Plant Protection and Quarantine Programs will supervise the fumigation of yams and will specify such safeguards as may be necessary for their

handling and transportation before and after fumigation, if, in the opinion of the inspector, this is necessary to assure there will be no pest risk associated with the importation and treatment. Final release of the yams for entry into the United States will be conditioned upon compliance with the specified safeguards.

(ii) Supervision of approved fumigation chambers will, if practicable, be carried on as a part of normal port inspection activities. When so available such supervision will be furnished without cost to the owner of the yams or his representative.

(4) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the yams, or his representative.

(5) *Department not responsible for damage.* While the prescribed treatment is judged from experimental tests to be safe for use with yams, the Department assumes no responsibility for any damage sustained through or in the course of treatment or because of pretreatment or posttreatment safeguards.

(b) *Alternate procedures.* (1) Yams produced in Japan and offered for entry under a permit issued in accordance with § 319.56-2 shall be subject to examination by an inspector at the port of entry. If this examination shows the yams to be free of plant pests, they may be imported without the fumigation required by paragraph (a) of this section.

(2) Yams produced in Cuba, if satisfactorily treated in Cuba and otherwise handled and certified as provided in this subparagraph will be eligible for entry under permit under § 319.56-2.

(i) *Approved fumigation.* The yams shall be fumigated at approved plants in Cuba in accordance with paragraph (a)(2) of this section.

(ii) *Approval of fumigation plants; costs of supervision.* Fumigation in Cuba will be contingent upon the availability of a fumigation plant, approved by the Administrator, to apply the treatment prescribed in paragraph (a)(2) of this section and upon the availability of

qualified personnel for assignment to approve the plant and to supervise the treatment and posttreatment handling of the yams in Cuba. Those in interest must make advance arrangements for approval of the fumigation plant and for supervision, and furnish the Administrator with acceptable assurances that they will provide, without cost to the United States Department of Agriculture, for all transportation, per diem, and other incidental expenses of such personnel and compensation for such personnel for their services in excess of 40 hours weekly, in connection with such approval and supervision, according to the rates established for the payment of inspectors of the Plant Protection and Quarantine Programs.

(iii) *Supervision of fumigation and subsequent handling.* The fumigation prescribed in this paragraph and the subsequent handling of the yams so fumigated must be under the supervision of a representative of the Plant Protection and Quarantine Programs. The treated yams must be safeguarded against insect infestation during the period prior to shipment from Cuba, in a manner required by such representative.

(iv) *Certification.* Yams will be certified by a representative of the Plant Protection and Quarantine Programs in Cuba for entry into the United States upon the basis of treatment under this subparagraph and compliance with the posttreatment safeguard requirements imposed by such representative. The final release of the yams for entry into the United States will be conditioned upon compliance with such requirements and upon satisfactory inspection on arrival to determine efficacy of treatment.

(v) *Costs.* All costs incident to fumigation, including those for construction, equipping, maintaining and operating fumigation plants and facilities, and carrying out requirements of posttreatment safeguards, and all costs as indicated in paragraph (b)(2)(ii) of this section incident to plant approval and supervision of treatment and subsequent handling of the yams in Cuba shall be borne by the owner of the yams or his representative.

(vi) *Department not responsible for damage.* The treatment prescribed in

paragraph (a)(2) of this section is judged from experimental tests to be safe for use with yams. However, the Department assumes no responsibility for any damage sustained through or in the course of treatment, or because of posttreatment safeguards.

(vii) *Ports of entry.* Yams to be offered for entry in accordance with the alternate procedure provided for in this subparagraph may be entered under permit under § 319.56-2 at any United States port where an inspector is stationed.

(viii) *Ineligible shipments.* Any shipments of yams produced in Cuba that are not eligible for certification under the alternate procedure provided for in this paragraph may enter only upon compliance with paragraph (a) of this section.

[24 FR 10788, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985, as amended at 70 FR 72887, Dec. 8, 2005]

§ 319.56-2m Administrative instructions prescribing method of fumigation of apricots, grapes, nectarines, peaches, plumcot, and plums from Chile.

Approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with part 305 of this chapter, is hereby prescribed as a condition of entry under permit for all shipments of apricots, grapes, nectarines, peaches, plumcot, and plums from Chile. This fumigation shall be in addition to other conditions that may be prescribed in the permit, such as a limitation as to origin, and requirements as to marking containers, safeguarding shipments from fruit fly infestation, and obtaining Chilean certification.

(a) *Ports of entry.* (1) Grapes from Chile may be imported through all maritime ports when approved facilities are available for fumigation in approved chambers or under tarpaulins.

(2) Apricots, nectarines, peaches, plumcot, and plums from Chile may be imported through ports on the Great Lakes, or on the Atlantic and Gulf Coasts (exclusive of Florida ports), subject to the availability of such approved fumigation facilities.

(b) *Approved fumigation.* Approved fumigation shall consist of fumigation

with methyl bromide at normal atmospheric pressure in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The fumigation may also be accomplished under tarpaulins in a manner, satisfactory to the inspector, that will ensure adequate air and fruit temperatures, and volatilization, distribution, and concentration of the fumigant. The treatment period shall be 2 hours for chamber fumigation and 2½ hours for tarpaulin fumigation, and the load shall not exceed 80 percent of the chamber volume or area enclosed by the tarpaulin. The fumigation shall be in accordance with part 305 of this chapter.

(c) *Supervision of fumigation.* Inspectors of the Plant Protection and Quarantine Programs shall supervise the fumigation of apricots, grapes, nectarines, peaches, plumcot, and plums from Chile and shall prescribe such safeguards as may be necessary for unloading, handling, and transportation preparatory to fumigation or other treatment. The final release of the fruit for entry into the United States will be conditioned upon compliance with prescribed safeguards and required treatments.

(d) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruits or his representative.

(e) *Department not responsible for damage.* The treatment prescribed in part 305 of this chapter is judged from experimental tests to be safe for use with apricots, grapes, nectarines, peaches, plumcot, and plums from Chile. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (c) of this section.

[25 FR 10865, Nov. 16, 1960, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985; 58 FR 69179, Dec. 30, 1993; 70 FR 72887, Dec. 8, 2005]

§ 319.56-2n Administrative instructions prescribing a combination treatment of fumigation plus refrigeration for certain fruits.

Fumigation with methyl bromide at normal atmospheric pressure followed by refrigerated storage, in accordance with part 305 of this chapter, is specific for the Mediterranean fruit fly, the oriental fruit fly, and the grape vine moth, and for certain pests of grapes and other fruit from Chile, but may not be effective against certain other dangerous pests of fruit. Accordingly this treatment will be approved for use as an alternative method of treatment to the methods prescribed in § 319.56-2d and § 319.56-2m, in connection with the issuance of permits under § 319.56-3 for the importation of fruits from any country when it is determined that the pest risk involved in the proposed importation is such that it will be eliminated by this treatment.

(a) *Ports of entry.* Fruits to be offered for entry may be shipped from the country of origin to United States ports which are named in the permit.

(b) *Approved treatment.* The phases of the combination treatment shall consist of fumigation and aeration, and a precooling and refrigeration period. The fumigation dosage rates and refrigeration periods are designated in part 305 of this chapter.

(c) *Supervision of treatment and subsequent handling.* The treatment approved in this section and the subsequent handling of the fruit so treated must be conducted under the supervision of an inspector of the Plant Protection and Quarantine Programs. If any part of the treatment is conducted in the country of origin, the organization requesting the service must enter into a formal agreement with this Plant Protection and Quarantine Programs to secure the services of an inspector.

(d) *Costs.* All costs of treatment, required safeguards, and supervision of treatments by the inspector shall be borne by the owner of the fruit, or his representative, when the treatment is given in foreign countries. There is no charge for supervision of treatments given at authorized U.S. ports of entry during regularly scheduled hours of duty.

(e) *Department not responsible for damage.* The treatment prescribed in paragraph (b) of this section is judged from limited experimental tests to be safe for use with fruits likely to be infested with the Mediterranean fruit fly or the oriental fruit fly, or with the grape vine moth or other pests of grapes or other fruits from Chile. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment. There has not been an opportunity to test the treatment on all varieties of fruits that may be offered for entry from various countries. It is recommended that the phytotoxicity of the treatment to the variety to be shipped shall be tested by exporters in the country of origin or by means of test shipments sent to this country.

[35 FR 283, Jan. 8, 1970, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985; 68 FR 37917, June 25, 2003; 70 FR 33325, June 7, 2005; 70 FR 72887, Dec. 8, 2005]

§ 319.56-2o Administrative instructions prescribing method of treatment of avocados for the Mediterranean fruit fly, the melon fly, and the oriental fruit fly.

Fumigation with methyl bromide at normal atmospheric pressure followed by refrigerated storage in accordance with the procedures described in this section is effective against the Mediterranean fruit fly, the melon fly, and the oriental fruit fly in avocados but is not effective against other dangerous pests of this fruit. Accordingly, this treatment will be approved for treatment of avocados in connection with the issuance of permits under § 319.56-3 for the importation of avocados from any country when it is determined that the pest risk involved in the proposed importation is such that it will be eliminated by this treatment.

(a) *Ports of entry.* Avocados offered for entry will be regulated by one of the following provisions:

(1) Avocados certified as having received the combined fumigation-refrigeration treatment in the country of origin immediately prior to shipment are enterable at all ports under permit.

(2) Avocados certified as having been fumigated in the country of origin and which are receiving the refrigeration

storage on board approved transiting vessels are enterable at the U.S. ports named in the permit upon completion of the refrigerated storage period.

(3) Avocados which have not been treated are enterable at the ports named in the permit for treatment upon arrival.

(b) *Approved treatment.* The phases of the combination treatment shall consist of fumigation and aeration; and a precooling and refrigeration period.

(1) The fumigant shall be methyl bromide applied at normal atmospheric pressure in an enclosure which has been approved for that purpose by the Plant Protection and Quarantine Programs. The dosage shall be two pounds per 1,000 cubic feet for 2½ hours at 70 °F. or above. At the conclusion of the 2½-hour exposure period, the avocados shall be aerated for minimum of 30 minutes. Avocados to be fumigated shall be restricted to fruit at the mature green stage of development and be arranged in ventilated wooden boxes, without packing material or wrappings. Fumigation chambers should not be loaded to more than two-thirds of their capacity. Tarpaulin enclosures should not be loaded to more than 80 percent of their capacity. The 2½-hour exposure period shall begin when all the fumigant has been volatilized and introduced into the enclosure. Forced circulation above and below the load, and between individual containers, shall be provided as soon as the avocados are loaded in the chamber and shall continue during the full period of fumigation and until the avocados have been removed to a well ventilated location.

(2) The refrigerated phase of the treatment shall consist of refrigeration for 7 days at 45 °F. or below. Cooling of the fruit must begin within 24 hours following the fumigation. The refrigerated storage shall consist of 7 days at fruit pulp temperature of 45 °F. or below. The time required to cool the pulp temperature to 45 °F. or below may be included in the 7-day period provided the cooling is accomplished in 24 hours or less. Temperature sensors inserted in the avocados will determine when pulp temperatures have reached 45 °F. or below.

(c) *Supervision of treatments and subsequent handling.* The treatment approved in this section and the subsequent handling of the avocados so treated must be conducted under the supervision of an Inspector of the Plant Protection and Quarantine Programs. If any part of the treatment is conducted in the country of origin, the organization requesting the service must enter into a formal agreement with this Plant Protection and Quarantine Programs to secure the services of an inspector.

(d) *Costs.* All costs of treatment, required safeguards, and supervision of treatments by the inspector shall be borne by the owner of the avocados or his representative when the treatment is given in foreign countries. There is no charge for supervision of treatments given at authorized U.S. ports of entry during regularly scheduled hours of duty.

(e) *Department not responsible for damage.* The treatment prescribed in paragraph (b) of this section is judged from experimental tests to be safe for use on avocados at the mature green stage of development. However, the Department of Agriculture assumes no responsibility for any damage sustained through or in the course of treatment. There has not been an opportunity to test the treatment on all varieties of avocados that may be offered for entry from various countries. It is recommended that the phytotoxicity of the treatment to the variety to be shipped shall be tested by exporters in the country of origin or by means of test shipments sent to this country.

[35 FR 2503, Feb. 4, 1970, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985; 68 FR 37917, June 25, 2003]

§ 319.56-2p Administrative instructions prescribing treatment and relieving restrictions regarding importation of okra from Mexico, the West Indies, and certain countries in South America.

(a) *Conditions for issuance of permits.*

(1) Under § 319.56-2, okra may be imported under permit and in compliance with the regulations in this subpart, from Mexico, the West Indies, Colombia, Ecuador, Peru, Suriname and Venezuela and any other South American

country specified in the permit, upon presentation of evidence that it has been treated in accordance with the procedure prescribed in paragraph (b) of this section.

(2) Further, it is hereby determined, pursuant to § 319.56, that existing conditions as to the pest risk involved in the importation of okra from such countries make it safe to make less stringent the restrictions contained in § 319.56-2, by allowing the importation of okra, as provided in paragraphs (c), (d), and (e) of this section without routinely requiring such treatment.

(3) As used in this section—(i) *West Indies* means the foreign islands lying between North and South America, the Caribbean Sea, and the Atlantic Ocean, divided into the Bahamas, the Greater Antilles (including Hispaniola), and the Lesser Antilles (including the Leeward Islands, the Windward Islands, and the islands north of Venezuela);

(ii) *Inspector* means an inspector of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service of the Department of Agriculture;

(iii) *Enter into the United States* means to introduce into the commerce of the United States after release from government detention;

(iv) *Import into the United States* means to bring within the territorial limits of the United States;

(v) *Port of arrival* means the first place at which a carrier containing okra stops to unload cargo after coming within the territorial limits of the United States;

(vi) *Permit* means a document issued for an article by Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture, stating that the article is eligible for importation into the United States; and

(vii) *United States* means the several states of the United States, the District of Columbia, the Northern Mariana Islands, Puerto Rico, and all other territories and possessions of the United States."

(b) *Authorized treatment procedure.* (1) The treatment shall consist of fumigation with methyl bromide at normal atmospheric pressure, under supervision, in a fumigation chamber which

has been approved for that purpose, as prescribed in this section. This treatment is specific for the pink bollworm (*Pectinophora gossypiella* (Saunders)) which is known to occur in Mexico, the West Indies, and South America. Under certain cultural conditions this pest will infest okra.

(2) *Approval of fumigation chambers.* (i) Fumigation chambers in the United States or elsewhere will be approved only if they are properly constructed and adequately equipped to handle and treat okra. Within the United States the chambers must be located within the practicable supervisory range of inspectors of the Plant Protection and Quarantine Programs stationed at the ports of entry authorized in permits for the importation of okra. Approval of fumigation chambers outside the United States will depend upon the availability of qualified inspectors for assignment to supervise the treatment and posttreatment handling of okra.

(ii) Determination of eligibility for approval under this section of fumigation plants will be made by an inspector of the Plant Protection and Quarantine Programs.

(3) *Fumigation schedule.* Such fumigation shall be in accordance with the following fumigation schedule:

Temperature (°F.)	Dosage (pounds of methyl bromide per 1,000 cubic feet)	Exposure period (hours)
90-96	1.0	2
80-89	1.5	2
70-79	2.0	2
60-69	2.5	2
50-59	3.0	2
40-49	3.5	2

(4) *Fumigation procedure.* Okra to be fumigated may be packed in slatted crates or other gas-permeable containers. The fumigation chamber shall not be loaded to more than two-thirds of its capacity. The containers may be stacked one on top of another, but a 3- to 4-inch space must be provided between all containers throughout the load. Good air circulation above and below the load shall be provided as soon as the okra is loaded and must be continued during the full period of fumigation and until the okra has been removed to a well-ventilated location. Strong blasts of air should not be directed against the okra. Fumigation at

temperatures in excess of 90 °F. may result in injury to okra and should be avoided if possible. Past experience indicates that injury may also result from excess moisture, such as residual moisture from harvesting when dew-covered.

(5) *Supervision of fumigation*—(i) *Other than interior of Mexico.* Inspectors will supervise the fumigation of okra at approved fumigation plants in locations other than those in the interior of Mexico and will specify safeguards in specific cases for the packing, other handling and transportation of the okra before and subsequent to fumigation, if, in the opinion of the inspector, this is necessary to assure that there will be no risk of introducing plant pests into the United States associated with the treatment and importation of the okra. The final release of the okra for entry into the United States will be conditioned upon compliance with the specified safeguards. Such supervision at plants within the United States will be carried on as a part of normal port inspection activities.

(ii) *Interior of Mexico.* Inspectors will supervise the fumigation of okra at approved fumigation plants in the interior of Mexico and will prescribe safeguards in specific cases for the packing and other handling of the okra at the treating plant and the transportation of the okra from the time it leaves the treating plant until it reaches the U.S. port of entry, if in the opinion of the inspector this is necessary to assure that there will be no risk of introducing plant pests into the United States associated with the treatment and importation of the okra. The final release of the okra for entry into the United States will be conditioned upon compliance with the prescribed safeguards.

(6) *Ports of entry.* Okra required to be treated for the pink bollworm may be imported into the United States only at New Orleans or such other South Atlantic or gulf ports with approved treatment facilities as may be named in the permit, except that, in addition, Mexican okra required to be treated for the pink bollworm may be imported into the United States at Mexican Border ports named in the permit.

(7) *Costs.* Persons desiring to import okra required to be treated under this section must make advance arrangements for approval of the fumigation plant and for supervision of the fumigation by an authorized inspector. All costs of constructing, maintaining, and operating fumigation plants and facilities, and carrying out specified pretreatment and posttreatment safeguards, and all additional costs to the Department arising from supervision under this section, by an inspector away from his regular place of official duty or outside of his regular hours of official duty (including as appropriate, base salary, overtime and holiday pay, travel subsistence, transportation, employee benefits, and incidental expenses) shall be borne by the owner of the okra or his representative. Where normal inspection activities preclude the furnishing of supervision during regularly assigned hours of duty, supervision will be furnished on a reimbursable basis. The owner of the okra or his representative must furnish the Administrator with acceptable assurances that he will provide funds to the U.S. Department of Agriculture to cover all costs of supervision, in accordance with §§354.1 and 354.2 of this chapter and this paragraph.

(8) *Department not responsible for damage.* While the prescribed treatment is judged from experimental tests to be safe for use with okra, the Department assumes no responsibility for any damage sustained through or in the course of treatment or because of pretreatment or posttreatment safeguards. There has not been an opportunity to test these treatments under all conditions or on all okra varieties or on okra from all areas involved.

(c) *Importations of okra without treatment from the Dominican Republic, Mexico, and Suriname.* Okra produced in the Dominican Republic, Mexico, or Suriname, may be entered into the United States without treatment for the pink bollworm only if:

(1) The okra is imported from the Dominican Republic, Mexico, or Suriname under permit;

(2) The okra is made available for examination by an inspector at the port of arrival and remains at the port of arrival until released by an inspector;

(3) During March 16 through December 31, inclusive, the okra is not moved into California; and

(4) During May 16 through November 30, inclusive, the okra is not moved into Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Nevada, North Carolina, South Carolina, Tennessee, or any part of Illinois, Kentucky, Missouri, or Virginia south of the 38th parallel.

(d) *Importation of okra without treatment from the West Indies and certain countries in South America.* Okra produced in the West Indies, Colombia, Ecuador, Peru, Venezuela, or other South American country, designated in accordance with §319.56-2 in a permit to import okra, may be imported into the United States through any North Atlantic port with approved treatment facilities, under permit and subject to inspection at the port of arrival but without treatment for the pink bollworm in paragraph (d)(2) of this section if destined to: Alaska, Colorado, Connecticut, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, or Wyoming, or the District of Columbia, or any part of Illinois, Kentucky, Missouri, or Virginia, north of the 38th parallel.

(e) *Importation of okra without treatment from Andros Island of the Bahamas; and okra without treatment from the West Indies for importation into the American Virgin Islands.* Okra produced in Andros Island, Bahamas, may be imported into the United States under permit through any port named in the permit, without treatment but subject to inspection at the port of arrival. Okra produced in the West Indies may be imported into the American Virgin Islands without treatment but subject to inspection at the port of arrival.

(f) *Treatment of okra for pests other than pink bollworm.* If, upon examination of okra imported in accordance with paragraphs (c), (d), or (e) of this section, an inspector at the port of arrival finds quarantine pests, other than the pink bollworm, that do not exist in

the United States or are not widespread in the United States, the okra will remain eligible for entry into the United States only if it is treated for the injurious insects in the physical presence of an inspector in accordance with part 305 of this chapter.

[35 FR 18033, Nov. 25, 1970, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985; 54 FR 33666, Aug. 16, 1989; 57 FR 54489, Nov. 19, 1992; 67 FR 8466, Feb. 25, 2002; 68 FR 37917, June 25, 2003; 70 FR 33326, June 7, 2005; 70 FR 72888, Dec. 8, 2005]

§ 319.56-2q Administrative instructions: Conditions governing the entry of citrus from South Africa.

Clementine (*Citrus reticulata*), grapefruit (*Citrus paradisi*), lemon (*Citrus limon*), minneola (*C. paradisi* × *C. reticulata*), navel orange (*Citrus sinensis*), satsuma (*Citrus reticulata*), and valencia orange (*Citrus sinensis*) may be imported into the United States from the Hartswater and Warrenton magisterial districts in the Northern Cape Province or the Western Cape Province of South Africa only under the following conditions:

(a) The citrus fruit must be grown in, packed in, and shipped from the Hartswater and Warrenton magisterial districts in the Northern Cape Province or the Western Cape Province of South Africa.

(b) The citrus fruit must be cold treated for false codling moth and fruit flies of the genera *Ceratitis* and *Pterandrus* in accordance with part 305 of this chapter.

(1) If the cold treatment is to be conducted in the United States, entry of the citrus fruit into the United States is limited to ports listed in § 319.56-2d(b)(1).

(2) If the cold treatment is conducted in South Africa or in transit to the United States, entry of the citrus into the United States may be made through any U.S. port.

(c) Each shipment of citrus fruit must be accompanied by a phytosanitary certificate issued by the South African Ministry of Agriculture

stating that the conditions of paragraph (a) of this section have been met.

(Approved by the Office of Management and Budget under control number 0579-0049)

[62 FR 595, Jan. 6, 1997, as amended at 68 FR 37917, June 25, 2003; 70 FR 33326, June 7, 2005]

§ 319.56-2r Administrative instructions governing the entry of apples and pears from certain countries in Europe.

(a) *Importations allowed.* Pursuant to § 319.56(c), the Administrator has determined that the following fruits may be imported into the United States in accordance with this section and other applicable provisions of this subpart:

(1) Apples from Belgium, Denmark, France, Germany, Great Britain, Italy, The Netherlands, Northern Ireland, Norway, Portugal, the Republic of Ireland, Spain, Sweden, and Switzerland;

(2) Pears from Belgium, France, Great Britain, Italy, The Netherlands, Portugal, and Spain.

(b) *Trust fund agreement.* Except as provided in paragraph (h) of this section, the apples or pears may be imported only if the national plant protection service of the exporting country (referred to in this section as the plant protection service) has entered into a trust fund agreement with Plant Protection and Quarantine (PPQ) for that shipping season. This agreement requires the plant protection service to pay in advance all estimated costs incurred by PPQ in providing the preclearance inspections prescribed in paragraph (d) of this section. These costs will include administrative expenses incurred in conducting the inspection services; and all salaries (including overtime and the federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The agreement requires the plant protection service to deposit a certified or cashier's check with the Animal and Plant Health Inspection Service (APHIS) for the amount of these costs, as estimated by PPQ. If the deposit is not sufficient to meet all costs incurred by PPQ, the agreement further requires the plant protection service to deposit with APHIS a certified or cashier's check for the amount

of the remaining costs, as determined by PPQ, before the inspection will be completed.

(c) *Responsibilities of the exporting country.* The apples or pears may be imported in any single shipping season only if all of the following conditions are met:

(1) Officials of the plant protection service must survey each orchard producing apples or pears for shipment to the United States at least two times between the time of spring blossoming and harvest. If the officials find any leaf mines that suggest the presence of *Leucoptera malifoliella* in an orchard, the officials must reject any fruit harvested from that orchard during that growing season for shipment to the United States. If the officials find evidence in an orchard of any other plant pest referred to in paragraph (g) of this section, they must ensure that the orchard and all other orchards within 1 kilometer of that orchard will be treated for that pest with a pesticide approved by the U.S. Environmental Protection Agency, in accordance with label directions and under the direction of the plant protection service. If the officials determine that the treatment program has not been applied as required or is not controlling the plant pest in the orchard, they must reject any fruit harvested from that orchard during that growing season for shipment to the United States.

(2) The apples or pears must be identified with the orchard from which they are harvested (the producing orchard) until the fruit arrives in the United States.

(3) The apples or pears must be processed and inspected in the approved packing sheds as follows:

(i) Upon arrival at the packing shed, the apples or pears must be inspected for insect pests as follows: For each grower lot (all fruit delivered for processing from a single orchard at a given time), packing shed technicians must examine all fruit in one carton on every third pallet (there are approximately 42 cartons to a pallet), or at least 80 apples or pears in every third bin (if the fruit is not in cartons on pallets). If they find any live larva or pupa of *Leucoptera malifoliella*, they must reject the entire grower lot for

shipment to the United States, and the plant protection service must reject for shipment any additional fruit from the producing orchard for the remainder of the shipping season.

(ii) The apples or pears must be sorted, sized, packed, and otherwise handled in the packing sheds on grading and packing lines used solely for fruit intended for shipment to the United States, or, if on grading and packing lines used previously for other fruit, only after the lines have been washed with water.

(iii) During packing operations, apples and pears must be inspected for insect pests as follows: All fruit in each grower lot must be inspected at each of two inspection stations on the packing line by packing shed technicians. In addition, one carton from every pallet in each grower lot must be inspected by officials of the plant protection service. If the inspections reveal any live larva or pupa of *Leucoptera malifoliella*, the entire grower lot must be rejected for shipment to the United States, and the plant protection service must reject for shipment any additional fruit from the producing orchard for the remainder of that shipping season. If the inspections reveal any other insect pest referred to in paragraph (g) of this section, and a treatment authorized in part 305 of this chapter is available, the fruit will remain eligible for shipment to the United States if the entire grower lot is treated for the pest under the supervision of a PPQ inspector. However, if the entire grower lot is not treated in this manner, or if a plant pest is found for which no treatment authorized in part 305 of this chapter is available, the entire grower lot will be rejected for shipment to the United States.

(4) Apples or pears that pass inspection at approved packing sheds must be presented to PPQ inspectors for preclearance inspection as prescribed in paragraph (d) of this section or for inspection in the United States as prescribed in paragraph (h) of this section.

(5) Apples and pears presented for preclearance inspection must be identified with the packing shed where they were processed, as well as with the producing orchard, and this identity must

be maintained until the apples or pears arrive in the United States.

(6) Facilities for the preclearance inspections prescribed in paragraph (d) of this section must be provided in the exporting country at a site acceptable to PPQ.

(7) Any apples or pears rejected for shipment into the United States may not, under any circumstance, be presented again for shipment to the United States.

(d) *Preclearance inspection.* Preclearance inspection will be conducted in the exporting country by PPQ inspectors. Preclearance inspection will be conducted for a minimum of 6,000 cartons of apples or pears, which may represent multiple grower lots from different packing sheds. The cartons examined during any given preclearance inspection will be known as an inspection unit. Apples or pears in any inspection unit may be shipped to the United States only if the inspection unit passes inspection as follows:

(1) Inspectors will examine, fruit by fruit, a biometrically designed statistical sample of 300 cartons drawn from each inspection unit.

(i) If inspectors find any live larva or pupa of *Leucoptera malifoliella*, they will reject the entire inspection unit for shipment to the United States. The inspectors also will reject for shipment any additional fruit from the producing orchard for the remainder of the shipping season. However, other orchards represented in the rejected inspection unit will not be affected for the remainder of the shipping season because of that rejection. Additionally, if inspectors reject any three inspection units in a single shipping season because of *Leucoptera malifoliella* on fruit processed by a single packing shed, no additional fruit from that packing shed will be accepted for shipment to the United States for the remainder of that shipping season.

(ii) If the inspectors find evidence of any other plant pest referred to in paragraph (g) of this section, and a treatment authorized in part 305 of this chapter is available, fruit in the inspection unit will remain eligible for shipment to the United States if the entire inspection unit is treated for the pest under the supervision of a PPQ in-

spector. However, if the entire inspectional unit is not treated in this manner, or if a plant pest is found for which no treatment authorized in part 305 of this chapter is available, the inspectors will reject the entire inspection unit for shipment to the United States. Rejection of an inspection unit because of pests other than *Leucoptera malifoliella* will not be cause for rejecting additional fruit from an orchard or packing shed.

(iii) Apples and pears precleared for shipment to the United States as prescribed in this paragraph will not be inspected again in the United States (except as necessary to ensure that the fruit has been precleared) unless the preclearance program with the exporting country is terminated in accordance with paragraph (e) of this section. If the preclearance program is terminated with any country, precleared fruit in transit to the United States at the time of termination will be spot-checked by PPQ inspectors upon arrival in the United States for evidence of plant pests referred to in paragraph (g) of this section. If any live larva or pupa of *Leucoptera malifoliella* is found in any carton of fruit, inspectors will reject that carton and all other cartons in that shipment that are from the same producing orchard. In addition, the remaining cartons of fruit in that shipment will be reinspected as an inspection unit in accordance with the preclearance procedures prescribed in paragraph (d) of this section.

(e) *Termination of preclearance programs.* The Administrator may terminate the preclearance program in a country if he determines that any of the conditions specified in paragraph (c) of this section are not met or because of pests found during preclearance inspections. Termination of the preclearance program will stop shipments of apples or pears from that country for the remainder of that shipping season. Termination of the preclearance program for findings of *Leucoptera malifoliella* in preclearance inspections in any country will be based on rates of rejection of inspection units as follows:

(1) Termination because of findings of *Leucoptera malifoliella*. The preclearance program will be terminated with a

country when, in one shipping season, inspection units are rejected because of *Leucoptera malifoliella* as follows:

- (i) 5 inspection units in sequence among inspection units 1-20, or a total of 8 or more of the inspection units 1-20;
- (ii) 5 inspection units in sequence among inspection units 21-40, or a total of 10 or more of the inspection units 1-40;
- (iii) 5 inspection units in sequence among inspection units 41-60, or a total of 12 or more of the inspection units 1-60;
- (iv) 5 inspection units in sequence among inspection units 61-80, or a total of 14 or more of the inspection units 1-80;
- (v) 5 inspection units in sequence among inspection units 81-100, or a total of 16 or more of the inspection units 1-100;
- (vi) 5 inspection units in sequence among inspection units 101-120, or a total of 18 or more of the inspection units 1-120.

(Sequence can be continued in increments of 20 inspection units by increasing the number of rejected inspection units by 2.)

(2) Termination because of findings of other plant pests. The preclearance program will be terminated with a country when, in one shipping season, inspection units are rejected because of other insect pests as follows:

- (i) 10 or more of the inspection units 1-20;
- (ii) 15 or more of the inspection units 1-40;
- (iii) 20 or more of the inspection units 1-60;
- (iv) 25 or more of the inspection units 1-80;
- (v) 30 or more of the inspection units 1-100; or
- (vi) 35 or more of the inspection units 1-120.

(Sequence can be continued in increments of 20 inspection units by increasing the number of rejected inspection units by 5.)

(f) *Cold treatment.* In addition to all other requirements of this section, apples or pears may be imported into the United States from France, Italy, Portugal, or Spain only if the fruit is cold treated for the Mediterranean fruit fly

in accordance with § 319.56-2d of this subpart.

(g) *Plant pests; authorized treatments.*
 (1) Apples from Belgium, Denmark, France, Great Britain, Italy, the Netherlands, Northern Ireland, Norway, Portugal, the Republic of Ireland, Spain, Sweden, Switzerland, and West Germany; and pears from Belgium, France, Great Britain, Italy, the Netherlands, Portugal, and Spain may be imported into the United States only if they are found free of the following pests or, if an authorized treatment is available, they are treated for the pest under the supervision of a PPQ inspector: the pear leaf blister moth (*Leucoptera malifoliella* (O.G. Costa) (Lyonetiidae)), the plum fruit moth (*Cydia funebrana* (Treitschke) (Tortricidae)), the summer fruit tortrix moth (*Adoxophyes orana* (Fischer von Rosslerstamm) (Tortricidae)), a leaf roller (*Argyrotaenia pulchellana* (Haworth) (Tortricidae)), and other insect pests that do not exist in the United States or that are not widespread in the United States.

(2) Authorized treatments are listed in part 305 of this chapter.

(h) *Inspection in the United States.* Notwithstanding provisions to the contrary in paragraphs (c) and (d) of this section, the Administrator may allow apples or pears imported under this section to be inspected at a port of arrival in the United States, in lieu of a preclearance inspection, under the following conditions:

(1) The Administrator has determined that inspection can be accomplished at the port of arrival without increasing the risk of introducing insect pests into the United States;

(2) Each pallet of apples or pears must be completely enclosed in plastic, to prevent the escape of insects, before it is offloaded at the port of arrival;

(3) The entire shipment of apples or pears must be offloaded and moved to an enclosed warehouse, where adequate inspection facilities are available, under the supervision of PPQ inspectors.

(4) The Administrator must determine that a sufficient number of inspectors are available at the port of arrival to perform the services required.

(5) The method of inspection will be the same as prescribed in paragraph (d) of this section for preclearance inspections.

[52 FR 46058, Dec. 4, 1987, as amended at 60 FR 14208, Mar. 16, 1995; 62 FR 50236, Sept. 25, 1997; 67 FR 8466, Feb. 25, 2002; 70 FR 33326, June 7, 2005]

§ 319.56-2s Administrative instructions governing the entry of apricots, nectarines, peaches, plumcot, and plums from Chile.

(a) *Importations allowed.* Pursuant to § 319.56(c), the Administrator has determined that apricots, nectarines, peaches, plumcot, and plums may be imported into the United States from Chile in accordance with this section and other applicable provisions of this subpart, as an alternative to importation in accordance with § 319.56-2m.

(b) *Trust fund agreement.* Except as provided in § 319.56-2m or in paragraph (g) of this section, apricots, nectarines, peaches, plumcot, and plums may be imported only if the plant protection service of Chile (Servicio Agrícola Y Ganadero, referred to in this section as SAG), has entered into a trust fund agreement with the Animal and Plant Health Inspection Service (APHIS) for that shipping season. This agreement requires SAG to pay in advance all estimated costs incurred by APHIS in providing the preclearance prescribed in paragraph (d) of this section. Payment of costs will be made on a monthly or other schedule designated by APHIS, but payment must be made for each preclearance service before APHIS provides the service. These costs will include administrative expenses incurred in conducting the preclearance services; and all salaries (including overtime and the federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in providing these services. The agreement requires SAG to deposit certified or cashier's checks with APHIS for the amount of these costs, as estimated by APHIS based on projected shipment volumes and cost figures from previous inspections. The agreement further requires that, if the deposit is not sufficient to meet all costs incurred by APHIS, SAG must

deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the inspections will be completed. The agreement also requires that, in the event of unexpected end-of-season costs, SAG must deposit with APHIS a certified cashier's check sufficient to meet such costs as estimated by APHIS, before any further preclearance services will be provided. If the amount SAG deposits during the shipping season exceeds the total costs incurred by APHIS in providing preclearance services, the difference will be returned to SAG by APHIS at the end of the shipping season upon request, or otherwise will be applied to preclearance services for the next shipping season.

(c) *Responsibilities of Servicio Agrícola Y Ganadero.* SAG will ensure that:

(1) Apricots, nectarines, peaches, plumcot, or plums are presented to APHIS inspectors for preclearance in their shipping containers at the shipping site for preclearance as prescribed in paragraph (d) of this section.

(2) Apricots, nectarines, peaches, plumcot, and plums presented for inspection are identified in shipping documents accompanying each load of fruit that identify the packing shed where they were processed and the orchards where they were produced; and this identity is maintained until the apricots, nectarines, peaches, or plums are released for entry into the United States.

(3) Facilities for the inspections prescribed in paragraph (d) of this section are provided in Chile at an inspection site acceptable to APHIS.

(d) *Preclearance inspection.* Preclearance inspection will be conducted in Chile under the direction of APHIS inspectors. An inspection unit will consist of a lot or shipment from which a statistical sample is drawn and examined. An inspection unit may represent multiple grower lots from different packing sheds. Apricots, nectarines, peaches, plumcot, or plums in any inspection unit may be shipped to the United States only if the inspection unit passes inspection as follows:

(1) Inspectors will examine, fruit by fruit, the contents of the cartons which were selected based on a sampling

scheme established for each inspection unit. An APHIS inspector will designate which cartons to inspect in each inspection unit to ensure that units infested at a level of 3 percent or more will be identified with a confidence level of 95 percent.

(i) If the inspectors find evidence of any plant pest for which a treatment authorized in part 305 of this chapter is available, fruit in the inspection unit will remain eligible for shipment to the United States if the entire inspection unit is treated for the pest in Chile. However, if the entire inspection unit is not treated in this manner, or if a plant pest is found for which no treatment authorized in part 305 of this chapter is available, the entire inspection unit will not be eligible for shipment to the United States.

(ii) Apricots, nectarines, peaches, plumcot, and plums precleared for shipment to the United States as prescribed in this paragraph will not be inspected again in the United States except as necessary to ensure that the fruit has been precleared and for occasional monitoring purposes.

(e) *Termination of preclearance programs.* Shipments of apricots, nectarines, peaches, plumcot, and plums will be individually evaluated regarding the rates of infestation of inspection units of these articles presented for preclearance. The inspection program for an article will be terminated when inspections determine that the rate of infestation of inspection units of the article by pests listed in paragraph (f) of this section exceeds 20 percent calculated on any consecutive 14 days of actual inspections (not counting days on which inspections are not conducted). Termination of the inspection program for an article will require mandatory treatment in Chile, prior to shipment to the United States, of shipments of the article for the remainder of that shipping season. If a preclearance inspection program is terminated with Chile, precleared fruit in transit to the United States at the time of termination will be spot-checked by APHIS inspectors upon arrival in the United States for evidence of plant pests referred to in paragraph (f) of this section.

(f) *Plant pests; authorized treatments.*

(1) Apricots, nectarines, peaches, plumcot, or plums from Chile may be imported into the United States only if they are found free of the following pests or, if an authorized treatment is available, they are treated for the pest under the supervision of an APHIS inspector: *Proeulia* spp., *Leptoglossus chilensis*, *Megalometis chilensis*, *Naupactus xanthographus*, *Listroderes subcinctus*, and *Conoderus rufangulus*, and other insect pests that the Administrator has determined do not exist, or are not widespread, in the United States.

(2) Authorized treatments are listed in part 305 of this chapter.

(g) *Inspection in the United States.* Notwithstanding provisions to the contrary in paragraphs (c) and (d) of this section, the Administrator may, in emergency or extraordinary situations, allow apricots, nectarines, peaches, plumcot, or plums imported under this section to be inspected at a port of arrival in the United States, in lieu of a preclearance inspection of fumigation in Chile, under the following conditions:

(1) The Administrator is satisfied that a unique situation exists which justifies a limited exception to mandatory preclearance;

(2) The Administrator has determined that inspection and/or treatment can be accomplished at the intended port of arrival without increasing the risk of introducing insect pests into the United States;

(3) The entire shipment of apricots, nectarines, peaches, plumcot, or plums must be offloaded and moved, under the supervision of APHIS inspectors, to an enclosed warehouse, where inspection and treatment facilities are available.

(4) The Administrator must determine that a sufficient number of inspectors are available at the port of arrival to perform the services required.

(5) The method of sampling and inspection will be the same as prescribed in paragraph (d) of this section for preclearance inspections.

[55 FR 42352, Oct. 19, 1990, as amended at 58 FR 69179, Dec. 30, 1993; 67 FR 8466, Feb. 25, 2002; 70 FR 33326, June 7, 2005]

Animal and Plant Health Inspection Service, USDA

§ 319.56-2t

§ 319.56-2t Administrative instructions: Conditions governing the entry of certain fruits and vegetables.

States, unless otherwise indicated, from the places specified, in accordance with § 319.56-6 and all other applicable requirements of this subpart:

(a) The following commodities may be imported into all parts of the United

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (see paragraph (b) of this section)
Argentina	Allium	<i>Allium</i> spp	Whole plant.	
	Apple	<i>Malus domestica</i>	Fruit	(b)(1)(ii)
	Apricot	<i>Prunus americana</i>	Fruit	(b)(1)(ii)
	Artichoke, globe	<i>Cynara scolymus</i>	Immature flower head.	
	Basil	<i>Ocimum</i> spp	Above ground parts.	
	Cherry	<i>Prunus avium</i> , <i>P. cerasus</i> .	Fruit	(b)(1)(ii)
	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
	Currant	<i>Ribes</i> spp	Fruit.	
	Grape	<i>Vitis</i> spp	Fruit	(b)(1)(ii).
	Gooseberry	<i>Ribes</i> spp	Fruit.	
	Kiwi	<i>Actinidia deliciosa</i>	Fruit	(b)(1)(ii)
	Marjoram	<i>Origanum</i> spp	Above ground parts.	
	Nectarine	<i>Prunus persica</i> var. <i>nucipersica</i> .	Fruit	(b)(1)(ii)
	Oregano	<i>Origanum</i> spp	Above ground parts.	
	Peach	<i>Prunus persica</i> var. <i>persica</i> .	Fruit	(b)(1)(ii)
	Pear	<i>Pyrus communis</i>	Fruit	(b)(1)(ii)
	Plum	<i>Prunus domestica</i> subsp. <i>domestica</i> .	Fruit	(b)(1)(ii)
	Pomegranate	<i>Punica granatum</i>	Fruit	(b)(1)(ii)
	Quince	<i>Cydonia oblonga</i>	Fruit	(b)(1)(ii)
Australia	Currant	<i>Ribes</i> spp	Fruit.	
	Gooseberry	<i>Ribes</i> spp	Fruit.	
Austria	Asparagus, white	<i>Asparagus officinalis</i>	Shoot (no green may be visible on the shoot).	
Bahamas	Citrus	<i>Citrus</i> spp	Fruit	(b)(5)(vi), (b)(6)(v).
Barbados	Banana	<i>Musa</i> spp	Flower.	
Belgium	Cichorium	<i>Cichorium</i> spp	Above ground parts	(b)(6)(i)
	Leek	<i>Allium</i> spp	Whole plant	(b)(5)(i)
Belize	Pepper	<i>Capsicum</i> spp	Fruit.	
	Banana	<i>Musa</i> spp	Flower in bracts with stems.	
	Bay leaf	<i>Laurus nobilis</i>	Leaf and stem.	
	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
	Eggplant	<i>Solanum melongena</i>	Fruit	(b)(3).
	Mint	<i>Mentha</i> spp	Above ground parts.	
	Papaya	<i>Carica papaya</i>	Fruit	(b)(1)(i), (b)(2)(iii).
	Pepper	<i>Capsicum</i> spp	Fruit	(b)(6)(ii)
	Rambutan	<i>Nephelium lappaceum</i>	Fruit or cluster	(b)(2)(i), (b)(5)(iii).
	Sage	<i>Salvia officinalis</i>	Leaf and stem.	
	Tarragon	<i>Artemisia dracunculus</i>	Above ground parts.	
Bermuda	Avocado	<i>Persea americana</i>	Fruit.	
	Carambola	<i>Averrhoa carambola</i>	Fruit.	
	Grapefruit	<i>Citrus paradisi</i>	Fruit.	
	Guava	<i>Psidium guajava</i>	Fruit.	
	Lemon	<i>Citrus limon</i>	Fruit.	
	Longan	<i>Dimocarpus longan</i>	Fruit or cluster.	
	Loquat	<i>Eriobotrya japonica</i>	Fruit.	
	Mandarin orange	<i>Citrus reticulata</i>	Fruit.	
	Natal plum	<i>Carissa macrocarpa</i>	Fruit.	
	Orange, sour	<i>Citrus aurantium</i>	Fruit.	
	Orange, sweet	<i>Citrus sinensis</i>	Fruit.	
	Papaya	<i>Carica papaya</i>	Fruit.	
	Passion fruit	<i>Passiflora</i> spp	Fruit.	
	Peach	<i>Prunus persica</i>	Fruit.	
	Pineapple guava	<i>Feijoa</i> spp	Fruit.	
	Suriname cherry	<i>Eugenia uniflora</i>	Fruit.	
	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (see paragraph (b) of this section)
Brazil	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
	Dasheen	<i>Colocasia esculenta</i>	Whole plant.	
	Ginger root	<i>Zingiber officinale</i>	Root.	
Chile	African horned cucumber.	<i>Cucumis metuliferus</i>	Fruit	(b)(2)(i).
	Apple	<i>Malus domestica</i>	Fruit	(b)(1)(ii)
	Asparagus	<i>Asparagus officinalis</i>	Whole plant.	
	Avocado	<i>Persea americana</i>	Fruit	(b)(1)(ii)
	Babaco	<i>Carica x heilborni</i> var. <i>pentagona</i> .	Fruit	(b)(1)(i).
	Basil	<i>Ocimum</i> spp	Above ground parts.	
	Blackberry	<i>Rubus</i> spp	Fruit.	
	Cherry	<i>Prunus avium</i> , <i>P. cerasus</i> .	Fruit	(b)(1)(ii)
	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
	Lucuma	<i>Manilkara sapota</i> (= <i>Lucuma mammosa</i>).	Fruit	(b)(1)(i).
	Mountain papaya	<i>Carica pubescens</i> (= <i>C. candamarcensis</i>).	Fruit	(b)(1)(ii).
	Oregano	<i>Origanum</i> spp	Leaf and stem.	
	Pear	<i>Pyrus communis</i>	Fruit	(b)(1)(ii)
	Pepper	<i>Capsicum annuum</i>	Fruit	(b)(1)(i).
	Raspberry	<i>Rubus</i> spp	Fruit.	
	Sandpear	<i>Pyrus pyrifolia</i>	Fruit	(b)(1)(ii).
	Tarragon	<i>Artemisia dracunculus</i> ..	Above ground parts.	
China	Bamboo	<i>Bambuseae</i> spp	Edible shoot, free of leaves and roots.	
	Ginger root	<i>Zingiber officinale</i>	Root.	
Colombia	Banana	<i>Musa</i> spp	Leaf and fruit.	
	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
	Rhubarb	<i>Rheum rhabarbarum</i>	Stalk.	
	Snow pea	<i>Pisum sativum</i> subsp. <i>sativum</i> .	Flat, immature pod.	
	Tarragon	<i>Artemisia dracunculus</i> ..	Above ground parts.	
Cook Islands	Banana	<i>Musa</i> spp	Green fruit	(b)(4)(i).
	Cucumber	<i>Cucumis sativus</i>	Fruit.	
	Drumstick	<i>Moringa pterygosperma</i> ..	Leaf.	
	Ginger	<i>Zingiber officinale</i>	Root	(b)(2)(ii).
	Indian mulberry	<i>Morinda citrifolia</i>	Leaf.	
	Lemongrass	<i>Cymbopogon</i> spp	Leaf.	
	Tossa jute	<i>Corchorus olitorius</i>	Leaf.	
Costa Rica	Banana	<i>Musa</i> spp	Leaf and fruit.	
	Basil	<i>Ocimum</i> spp	Whole plant.	
	Carrot	<i>Daucus carota</i> ssp <i>sativus</i> .	Whole plant.	
	Chinese kale	<i>Brassica alboglabra</i>	Leaf and stem.	
	Chinese turnip	<i>Raphanus sativus</i>	Root.	
	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
	Cole and mustard crops, including cabbage, broccoli, cauliflower, turnips, mustards, and related varieties.	<i>Brassica</i> spp	Whole plant of edible varieties only.	
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
	Eggplant	<i>Solanum melongena</i>	Fruit	(b)(3).
	Jicama	<i>Pachyrhizus tuberosus</i> or <i>P. erosus</i> .	Root.	
	Rambutan	<i>Nephelium lappaceum</i> ..	Fruit or cluster	(b)(2)(i), (b)(5)(iii).
Dominican Republic	Avocado	<i>Persea americana</i>	Fruit.	
	Bamboo	<i>Bambuseae</i> spp	Edible shoot, free of leaves and roots.	
	Banana	<i>Musa</i> spp	Fruit.	
	Breadfruit	<i>Artocarpus altalis</i>	Fruit.	
	Cassava	<i>Manihot esculenta</i>	Root.	
	Celeriac	<i>Apium graveolens</i> var. <i>dulce</i> .	Whole plant.	
	Citrus	<i>Citrus</i> spp	Fruit	(b)(6)(iii)
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)

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Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (see paragraph (b) of this section)
Ecuador	Dasheen	<i>Colocasia esculenta</i>	Whole plant.	
	Durian	<i>Durio zibethinus</i>	Fruit.	
	Genip	<i>Melicoccus bijugatus</i>	Fruit.	
	Papaya	<i>Carica papaya</i>	Fruit	(b)(2)(iii)
	Pepper	<i>Capsicum</i> spp	Fruit.	
	Pineapple	<i>Ananas comosus</i>	Fruit	(b)(2)(iii)
	Banana	<i>Musa</i> spp	Flower.	
	Basil	<i>Ocimum</i> spp	Above ground parts.	
	Chervil	<i>Anthriscus</i> spp	Leaf and stem.	
	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
El Salvador	Cole and mustard crops, including cabbage, broccoli, cauliflower, turnips, mustards, and related varieties.	<i>Brassica</i> spp	Whole plant of edible varieties only.	
	Pineapple	<i>Ananas comosus</i>	Fruit	(b)(2)(iii)
	Basil	<i>Ocimum</i> spp	Above ground parts.	
	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
	Cilantro	<i>Coriandrum sativum</i>	Above ground parts..	
	Cole and mustard crops, including cabbage, broccoli, cauliflower, turnips, mustards, and related varieties.	<i>Brassica</i> spp	Whole plant of edible varieties only.	
	Dill	<i>Anethum graveolens</i>	Above ground parts.	
	Eggplant	<i>Solanum melongena</i>	Fruit with stem	(b)(3).
	Fennel	<i>Foeniculum vulgare</i>	Leaf and stem	(b)(2)(i).
	German chamomile	<i>Matricaria recutita</i> and <i>Matricaria chamomilla</i> .	Flower and leaf	(b)(2)(i).
France	Loroco	<i>Fernaldia</i> spp	Flower and leaf.	
	Oregano or sweet marjoram.	<i>Origanum</i> spp	Leaf and stem	(b)(2)(i).
	Parsley	<i>Petroselinum crispum</i> ..	Leaf and stem	(b)(2)(i).
	Rambutan	<i>Nephelium lappaceum</i> ..	Fruit or clusters	(b)(2)(i), (b)(5)(iii).
	Rosemary	<i>Rosmarinus officinalis</i> ..	Leaf and stem	(b)(2)(i).
	Waterlily or lotus	<i>Nelumbo nucifera</i>	Roots without soil	(b)(2)(i).
	Yam-bean or Jicama	<i>Pachyrhizus</i> supp	Roots without soil	(b)(2)(i).
	Tomato	<i>Lycopersicon esculentum</i> .	Fruit, stem, and leaf	(b)(4)(ii).
	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
	Basil	<i>Ocimum</i> spp	Leaf and stem.	
Great Britain	Abiu	<i>Pouteria caimito</i>	Fruit.	
Grenada	Atemoya	<i>Annona squamosa</i> x <i>A. cherimola</i> .	Fruit	(b)(3).
	Bilimbi	<i>Averrhoa bilimbi</i>	Fruit.	
	Breadnut	<i>Brosimum alicastrum</i>	Fruit.	
	Cherimoya	<i>Annona cherimola</i> Fruit ..	(b)(3).	
	Cocoplum	<i>Chrysobalanus icaco</i>	Fruit.	
	Cucurbits	<i>Cucurbitaceae</i>	Fruit.	
	Custard apple	<i>Annona reticulata</i> Fruit ..	(b)(3).	
	Durian	<i>Durio zibethinus</i>	Fruit.	
	Jackfruit	<i>Artocarpus heterophyllus</i> .	Fruit.	
	Jambolan	<i>Syzygium cumini</i>	Fruit.	
	Jujube	<i>Ziziphus</i> spp	Fruit.	
	Langsat	<i>Lansium domesticum</i>	Fruit.	
	Litchi	<i>Litchi chinensis</i>	Fruit or cluster.	
	Malay apple	<i>Syzygium malaccense</i> ..	Fruit.	
	Mammee apple	<i>Mammea americana</i>	Fruit.	
	Peach palm	<i>Bactris gasipaes</i>	Fruit.	
	Piper	<i>Piper</i> spp	Fruit.	
	Pulasan	<i>Nephelium ramboutan-ake</i> .	Fruit.	
	Rambutan	<i>Nephelium lappaceum</i> ..	Fruit or cluster.	
	Rose apple	<i>Syzygium jambos</i>	Fruit.	
	Santol	<i>Sandoricum koetjape</i>	Fruit.	
	Sapote	<i>Pouteria sapota</i>	Fruit.	
	Soursop	<i>Annona muricata</i>	Fruit.	(b)(3).
	Supar apple	<i>Annona squamosa</i>	Fruit.	(b)(3).

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (see paragraph (b) of this section)
Guatemala	Artichoke, globe	<i>Cynara scolymus</i>	Immature flower head.	
	Banana	<i>Musa</i> spp	Leaf and fruit.	
	Basil	<i>Ocimum</i> spp	Above ground parts.	
	Cichorium	<i>Cichorium</i> spp	Above ground parts	(b)(6)(i)
	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
	Dill	<i>Anethum graveolens</i>	Above ground parts.	
	Eggplant	<i>Solanum melongena</i>	Fruit	(b)(3).
	Fennel	<i>Foeniculum vulgare</i>	Leaf and stem	(b)(2)(i).
	German chamomile	<i>Matricaria chamomilla</i> and <i>Matricaria recutita</i> .	Flower and leaf	(b)(2)(i).
	Jicama	<i>Pachyrhizus tuberosus</i> or <i>P. erosus</i> .	Root.	
	Loroco	<i>Fernaldia</i> spp	Flower and leaf.	
	Mint	<i>Mentha</i> spp	Above ground parts.	
	Okra	<i>Abelmoschus esculentus</i> .	Pod.	
	Oregano	<i>Origanum</i> spp	Leaf and stem.	
	Papaya	<i>Carica papaya</i>	Fruit	(b)(1)(i), (b)(2)(iii).
	Rambutan	<i>Nephelium lappaceum</i>	Fruit or cluster	(b)(2)(i), (b)(5)(iii).
	Rhubarb	<i>Rheum rhabarbarum</i>	Above ground parts.	
	Rosemary	<i>Rosmarinus officinalis</i>	Leaf and stem	(b)(2)(i).
	Tarragon	<i>Artemisia dracunculus</i>	Above ground parts.	
Guyana	Waterlily or lotus	<i>Nelumbo nucifera</i>	Roots without soil	(b)(2)(i).
	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
Haiti	Jackfruit	<i>Artocarpus heterophyllus</i> .	Fruit.	
Honduras	Banana	<i>Musa</i> spp	Flower.	
	Basil	<i>Ocimum basilicum</i>	Leaf and stem	(b)(2)(i), (b)(5)(iv).
	Cichorium	<i>Cichorium</i> spp	Leaf, stems, and roots.	
	Cilantro	<i>Coriandrum sativum</i>	Above ground parts.	
	Cole and mustard crops, including cabbage, broccoli, cauliflower, turnips, mustards, and related varieties.	<i>Brassica</i> spp	Whole plant of edible varieties only.	
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
	Eggplant	<i>Solanum melongena</i>	Fruit	(b)(3).
	German chamomile	<i>Matricaria recutita</i> and <i>Matricaria chamomilla</i> .	Flower and leaf	(b)(2)(i).
	Loroco	<i>Fernaldia</i> spp	Flower and leaf.	
	Okra	<i>Abelmoschus esculentus</i> .	Pod.	
	Oregano or sweet marjoram.	<i>Origanum</i> spp	Leaf and stem	(b)(2)(i).
	Radish	<i>Raphanus sativus</i>	Root.	
	Rambutan	<i>Nephelium lappaceum</i>	Fruit or cluster	(b)(2)(i), (b)(5)(iii).
	Waterlily or lotus	<i>Nelumbo nucifera</i>	Roots without soil	(b)(2)(i)
	Yam-bean or Jicama	<i>Pachyrhizus</i> spp	Roots without soil	(b)(2)(i).
Indonesia	Dasheen	<i>Colocasia</i> spp, <i>Alocasia</i> spp, and <i>Xanthosoma</i> spp.	Tuber	(b)(2)(iv).
	Onion	<i>Allium cepa</i>	Bulb.	
Israel	Shallot	<i>Allium ascalonicum</i>	Bulb.	
	Arugula	<i>Eruca sativa</i>	Leaf and stem.	
	Basil	<i>Ocimum</i> spp	Above ground parts	
	Chives	<i>Allium schoenoprasum</i>	Leaf.	
	Dill	<i>Anethum graveolens</i>	Above ground parts.	
	Mint	<i>Mentha</i> spp	Above ground parts.	
	New Zealand spinach	<i>Tetragonia tetragonioides</i> .	Leaves..	
	Parsley	<i>Petroselinum crispum</i>	Above ground parts.	
Jamaica	Watercress	<i>Nasturtium officinale</i>	Leaf and stem.	
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
	Fenugreek	<i>Tirgonella foenum-graceum</i> .	Leaf, stem, root.	
	Jackfruit	<i>Artocarpus heterophyllus</i> .	Fruit.	
	Ivy gourd	<i>Coccinia grandis</i>	Fruit.	
	Pak choi	<i>Brassica chinensis</i>	Leaf and stem.	

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Japan	Papaya	<i>Carica papaya</i>	Above ground parts	(b)(2)(iii), (b)(3)
	Pointed gourd	<i>Trichosanthes dioica</i>	Fruit.	
	Bamboo	<i>Bambuseae</i> spp	Edible shoot, free of leaves and roots.	
Liberia	Mioga ginger	<i>Zingiber mioga</i>	Above ground parts.	(b)(1)(iii).
	Mung bean	<i>Vigna radiata</i>	Seed sprout.	
	Soybean	<i>Glycine max</i>	Seed sprout.	
Mexico	Jute	<i>Corchorus capsularis</i>	Leaf.	(b)(1)(iii).
	Potato	<i>Solanum tuberosum</i>	Leaf.	
	Allium	<i>Allium</i> spp	Whole plant.	
	Anise	<i>Pimpinella anisum</i>	Leaf and stem.	(b)(1)(iii).
	Apple	<i>Malus domestica</i>	Fruit	
	Apricot	<i>Prunus armeniaca</i>	Fruit	
	Artichoke, globe	<i>Cynara scolymus</i>	Immature flower head.	(b)(1)(iii).
	Artichoke, Jerusalem	<i>Helianthus tuberosus</i>	Whole plant.	
	Arugula	<i>Eruca sativa</i>	Leaf and stem.	
	Asparagus	<i>Asparagus officinalis</i>	Shoot.	(b)(1)(iii).
	Banana	<i>Musa</i> spp	Flower and leaf.	
	Basil	<i>Ocimum</i> spp	Above ground parts.	
	Bay leaf	<i>Laurus nobilis</i>	Leaf and stem.	(b)(1)(iii).
	Beet	<i>Beta vulgaris</i>	Whole plant.	
	Blackberry	<i>Rubus</i> spp	Fruit.	
	Blueberry	<i>Vaccinium</i> spp	Fruit.	(b)(1)(iii).
	Carrot	<i>Daucus carota</i>	Whole plant.	
	Celery	<i>Apium graveolens</i> var. <i>dulce</i> .	Whole plant.	
	Cichorium	<i>Cichorium</i> spp	Above ground parts	(b)(6)(i)
	Coconut	<i>Cocos nucifera</i>	Fruit without husk.	
	Cucurbits	<i>Cucurbitaceae</i>	Fruit with milk and husk	
	Dill	<i>Anethum graveolens</i>	Inflorescence, flower, and fruit.	(b)(5)(v).
	Eggplant	<i>Solanum melongena</i>	Above ground parts.	
	Fig	<i>Ficus carica</i>	Fruit with stem.	
	Grape	<i>Vitis</i> spp	Fruit	(b)(1)(iii), (b)(2)(i).
	Grapefruit	<i>Citrus paradisi</i>	Fruit, cluster, and leaf.	
	Jicama or yam bean	<i>Pachyrhizus tuberosus</i> , <i>P. erosus</i> .	Fruit	
	Lambsquarters	<i>Chenopodium</i> spp	Root.	(b)(1)(iii).
	Lemon	<i>Citrus limon</i>	Above ground parts.	
	Lettuce	<i>Lactuca sativa</i>	Fruit.	
	Lime, sour	<i>Citrus aurantiifolia</i>	Whole plant.	(b)(1)(iii).
	Mango	<i>Mangifera indica</i>	Fruit	
	Orange	<i>Citrus sinensis</i>	Fruit	
	Oregano	<i>Origanum</i> spp	Above ground parts.	(b)(1)(iii).
	Parsley	<i>Petroselinum crispum</i>	Whole plant.	
	Peach	<i>Prunus persica</i>	Fruit	
	Pepper	<i>Capsicum</i> spp	Fruit	(b)(1)(iii).
	Persimmon	<i>Diospyros</i> spp	Fruit	
	Pineapple	<i>Ananas comosus</i>	Fruit	
	Pitaya	<i>Hylocereus</i> spp	Fruit.	(b)(1)(iv), (b)(2)(i).
	Piper	<i>Piper</i> spp	Frui.	
	Pomegranate	<i>Punica granatum</i>	Leaf and stem.	
	Porophyllum	<i>Porophyllum</i> spp	Fruit	(b)(1)(iii).
	Prickly-pear pad	<i>Opuntia</i> spp	Fruit	
	Radish	<i>Raphanus sativus</i>	Above ground parts.	
	Rambutan	<i>Nephelium lappaceum</i>	Pad.	(b)(2)(i), (b)(5)(iii).
	Raspberry	<i>Rubus</i> spp	Whole plant.	
	Rosemary	<i>Rosmarinus officinalis</i>	Fruit or cluster	
	Salicornia	<i>Salicornia</i> spp	Fruit.	(b)(2)(i), (b)(5)(iii).
	Spinach	<i>Spinacia oleracea</i>	Above ground parts.	
	Strawberry	<i>Fragaria</i> spp	Above ground parts.	
	Swiss chard	<i>Beta vulgaris</i> var. <i>cicla</i>	Whole plant.	(b)(1)(iii).
	Tangerine	<i>Citrus reticulata</i>	Fruit	
	Tepeguaje	<i>Leucaena</i> spp	Fruit.	
	Thyme	<i>Thymus vulgaris</i>	Above ground parts.	(b)(1)(iii).
	Tomatillo	<i>Physalis ixocarpa</i>	Whole plant.	
	Tomato	<i>Lycopersicon lycopersicum</i> .	Fruit, stem, and leaf.	
Morocco	Tuna	<i>Opuntia</i> spp	Fruit.	(b)(1)(iii).
	Strawberry	<i>Fragaria</i> spp	Fruit.	

Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (see paragraph (b) of this section)
Morocco and Western Sahara.	Tomato	<i>Lycopersicon esculentum</i> .	Fruit, stem, and leaf	(b)(4)(ii)
Netherlands	Cichorium	<i>Cichorium</i> spp	Above ground parts	(b)(6)(i)
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
	Eggplant	<i>Solanum melongena</i>	Fruit.	
	Leek	<i>Allium</i> spp	Whole plant	(b)(5)(i).
	Radish	<i>Raphanus sativus</i>	Root.	
New Zealand	Avocado	<i>Persea americana</i>	Fruit.	
	Citrus	<i>Citrus</i> spp	Fruit	(b)(3), (b)(5)(vii).
	Fig	<i>Ficus carica</i>	Fruit.	
	Oca	<i>Oxalis tuberosa</i>	Tuber.	
Nicaragua	Banana	<i>Musa</i> spp	Leaf and fruit.	
	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
	Cilantro	<i>Coriandrum sativum</i>	Above ground parts.	
	Cole and mustard crops, including cabbage, broccoli, cauliflower, turnips, mustards, and related varieties.	<i>Brassica</i> spp	Whole plant of edible varieties only.	
	Dasheen	<i>Colocasia esculenta</i>	Tuber.	
	Eggplant	<i>Solanum melongena</i>	Fruit with stem	(b)(3).
	Fennel	<i>Foeniculum vulgare</i>	Leaf and stem	(b)(2)(i).
	German chamomile	<i>Matricaria recutita</i> and <i>M. chamomilla</i> .	Flower and leaf	(b)(2)(i).
	Loroco	<i>Fernaldia</i> spp	Flower and leaf.	
	Mint	<i>Mentha</i> spp	Above ground parts.	
	Parsley	<i>Petroselinum crispum</i> ..	Above ground parts.	
	Rambutan	<i>Nephelium lappaceum</i> ..	Fruit or cluster	(b)(2)(i), (b)(5)(iii).
	Rosemary	<i>Rosmarinus officinalis</i> ..	Above ground parts.	
	Waterlily or lotus	<i>Nelumbo nucifera</i>	Roots without soil.	(b)(2)(i).
	Yam-bean or Jicama	<i>Pachyrhizus</i> spp	Roots without soil.	(b)(2)(i).
Panama	Basil	<i>Ocimum</i> spp	Above ground parts.	
	Bean, green and lima	<i>Phaseolus vulgaris</i> and <i>P. lunatus</i> .	Seed.	
	Chervil	<i>Anthriscus cerefolium</i> ..	Above ground parts.	
	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
	Eggplant	<i>Solanum melongena</i>	Fruit	(b)(3).
	Fenugreek	<i>Tirgonella foenum-graceum</i> .	Leaf and stem.	
	Lemon thyme	<i>Thymus citriodorus</i>	Leaf and stem.	
	Mint	<i>Mentha</i> spp	Above ground parts.	
	Oregano	<i>Origanum</i> spp	Above ground parts.	
	Rambutan	<i>Nephelium lappaceum</i> ..	Fruit or cluster	(b)(2)(i), (b)(5)(iii).
	Rosemary	<i>Rosmarinus officinalis</i> ..	Above ground parts.	
	Tarragon	<i>Artemisia dracunculus</i> ..	Above ground parts.	
Paraguay	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
Peru	Arugula	<i>Eruca sativa</i>	Leaf and stem.	
	Banana	<i>Musa</i> spp	Leaf and fruit.	
	Basil	<i>Ocimum</i> spp	Leaf and stem.	
	Carrot	<i>Daucus carota</i>	Root.	
	Chervil	<i>Anthriscus</i> spp	Leaf and stem.	
	Cichorium	<i>Cichorium</i> spp	Leaves, stems, and roots.	
	Cole and mustard crops, including cabbage, broccoli, cauliflower, turnips, mustards, and related varieties.	<i>Brassica</i> spp	Whole plant of edible varieties only.	
	Corn salad	<i>Valerianella</i> spp	Whole plant.	
	Dill	<i>Anethum graveolens</i>	Above ground parts.	
	Lambsquarters	<i>Chenopodium album</i>	Above ground parts.	
	Lemongrass	<i>Cymbopogon</i> spp	Leaf and stem.	
	Marjoram	<i>Origanum</i> spp	Above ground parts.	
	Mustard greens	<i>Brassica juncea</i>	Leaf.	
	Oregano	<i>Origanum</i> spp	Leaf and stem.	
	Parsley	<i>Petroselinum crispum</i> ..	Leaf and stem.	
	Swiss chard	<i>Beta vulgaris</i> subsp. <i>cicla</i> .	Leaf and stem.	

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Country/locality	Common name	Botanical name	Plant part(s)	Additional restrictions (see paragraph (b) of this section)
Philippines	Thyme	<i>Thymus vulgaris</i>	Above ground parts.	
	Jicama	<i>Pachyrhizus tuberosus</i> or <i>P. erosus</i> .	Root.	
Poland	Pepper	<i>Capsicum</i> spp.	Fruit.	
	Tomato	<i>Lycopersicon esculentum</i> .	Fruit, stem, and leaf.	
Republic of Korea	Angelica	<i>Aralia elata</i>	Edible shoot.	
	Aster greens	<i>Aster scaber</i>	Leaf and stem.	
	Bonnet bellflower	<i>Codonopsis lanceolata</i>	Root.	
	Chinese bellflower	<i>Platycodon grandiflorum</i>	Root.	
	Dasheen	<i>Colocasia</i> spp., <i>Alocasia</i> spp., and <i>Xanthosoma</i> spp.	Root	(b)(2)(iv).
	Eggplant	<i>Solanum melongena</i>	Fruit with stem.	
	Kiwi	<i>Actinidia deliciosa</i>	Fruit.	
	Lettuce	<i>Lactuca sativa</i>	Leaf.	
	Mugwort	<i>Artemisia vulgaris</i>	Leaf and stem.	
	Onion	<i>Allium cepa</i>	Bulb.	
	Shepherd's purse	<i>Capsella bursa-pastoris</i>	Leaf and stem.	
	Strawberry	<i>Fragaria</i> spp.	Fruit	(b)(5)(ii).
	Swiss chard	<i>Beta vulgaris</i> subsp. <i>cicla</i> .	Leaf and stem.	
	Watercress	<i>Nasturtium officinale</i>	Leaf and stem.	
	Youngia greens	<i>Youngia sonchifolia</i>	Leaf, stem, and root.	
Sierra Leone	Cassava	<i>Manihot esculenta</i>	Leaf and root	
	Jute	<i>Corchorus capsularis</i>	Leaf.	
	Potato	<i>Solanum tuberosum</i>	Leaf.	
St. Vincent and the Grenadines.	Turmeric	<i>Curcuma longa</i>	Rhizome.	
South Africa	Artichoke, globe	<i>Cynara scolymus</i>	Immature flower head.	
	Pineapple	<i>Ananas</i> spp.	Fruit	(b)(2)(v).
Spain	Cucurbit	Cucurbitaceae	Above ground parts	(b)(3)
	Eggplant	<i>Solanum melongena</i>	Fruit with stem	(b)(3).
	Lemon	<i>Citrus limon</i>	Fruit	(b)(3), (b)(6)(iv)
	Tomato	<i>Lycopersicon esculentum</i> .	Fruit, stem, and leaf	(b)(4)(ii).
	Watermelon	<i>Citrullus lanatus</i>	Fruit	(b)(3).
Suriname	Amaranth	<i>Amaranthus</i> spp.	Leaf and stem.	
	Black palm nut	<i>Astrocaryum</i> spp.	Fruit.	
	Cichorium	<i>Cichorium</i> spp.	Leaves, stems, and roots.	
	Jessamine	<i>Cestrum latifolium</i>	Leaf and stem.	
	Malabar spinach	<i>Bassella alba</i>	Leaf and stem.	
	Mung bean	<i>Vigna radiata</i>	Seed sprout.	
	Pak choi	<i>Brassica chinensis</i>	Leaf and stem.	
Sweden	Dill	<i>Anethum graveolens</i>	Above ground parts.	
Taiwan	Bamboo	Bambuseae spp.	Edible shoot, free of leaves and roots.	
	Burdock	<i>Arctium lappa</i>	Root.	
	Wasabi (Japanese horseradish).	<i>Wasabia japonica</i>	Root and stem.	
Thailand	Dasheen	<i>Alocasia</i> spp., <i>Colocasia</i> spp., and <i>Xanthosoma</i> spp.	Leaf and stem.	
	Tumeric	<i>Curcuma domestica</i>	Leaf and stem.	
Tonga	Burdock	<i>Arctium lappa</i>	Root, stem, and leaf.	
	Jicama tuberosus	<i>Pachyrhizus tuberosus</i>	Root.	
	Pumpkin	<i>Cucurbit maxima</i>	Fruit.	
Trinidad and Tobago	Cucurbit	Cucurbitaceae	Above ground parts	(b)(2)(iii), (b)(3)
	Lemongrass	<i>Cymbopogon citratus</i>	Leaf and stem.	
	Leren	<i>Calathea allouia</i>	Tuber.	
	Shield leaf	<i>Cecropia peltata</i>	Leaf and stem.	
Uruguay	Cichorium	<i>Cichorium</i> spp.	Leaves, stems, and roots.	
Venezuela	Banana	<i>Musa</i> spp.	Fruit.	
	Cichorium	<i>Cichorium</i> spp.	Leaves, stems, and roots.	
Zambia	Snow pea	<i>Pisum sativum</i> spp. <i>sativum</i> .	Flat, immature pod.	

(b) Additional restrictions for applicable fruits and vegetables as specified in paragraph (a) of this section.

(1) *Free areas.* (i) The commodity must be from a Medfly-free area listed in § 319.56-2(j) and must be accompanied by a phytosanitary certificate issued by the national plant protection organization (NPPO) of the country of origin with an additional declaration stating that the commodity originated in a Medfly-free area.

(ii) The commodity must be from a fruit-fly free area listed in § 319.56-2(j) and must be accompanied by a phytosanitary certificate issued by the NPPO of the country of origin with an additional declaration stating that the commodity originated in a free area. Fruit from outside fruit-fly free areas must be treated in accordance with § 319.56-2x of this subpart.

(iii) The commodity must be from a fruit-fly free area listed in § 319.56-2(h) and must be accompanied by a phytosanitary certificate issued by the NPPO of the country of origin with an additional declaration stating that the commodity originated in a free area.

(iv) The commodity must be from a fruit-fly free area listed in § 319.56-2(h) and must be accompanied by a phytosanitary certificate issued by the NPPO of the country of origin with an additional declaration stating: "These regulated articles originated in an area free from pests as designated in 7 CFR 319.56-2(h) and, upon inspection, were found free of *Dysmicoccus neobrevipes* and *Planococcus minor*."

(2) *Restricted importation and distribution.* (i) Prohibited entry into Puerto Rico, Virgin Islands, Hawaii, and Guam. Cartons in which commodity is packed must be stamped "Not for importation into or distribution within PR, VI, HI, or Guam."

(ii) Prohibited entry into Puerto Rico, Virgin Islands, and Guam. Cartons in which commodity is packed must be stamped "Not for importation into or distribution within PR, VI, or Guam."

(iii) Prohibited entry into Hawaii. Cartons in which commodity is packed must be stamped "Not for importation into or distribution within HI."

(iv) Prohibited entry into Guam. Cartons in which commodity is packed

must be stamped "Not for importation into or distribution within Guam."

(v) Prohibited entry into Puerto Rico, Virgin Islands, Northern Mariana Islands, Hawaii, and Guam. Cartons in which commodity is packed must be stamped "For distribution in the continental United States only."

(3) Commercial shipments only.

(4) *Stage of fruit.* (i) The bananas must be green at the time of export. Inspectors at the port of arrival will determine that the bananas were green at the time of export if:

(A) Bananas shipped by air are still green upon arrival in the United States; and

(B) Bananas shipped by sea are either still green upon arrival in the United States or yellow but firm.

(ii) The tomatoes must be green upon arrival in the United States. Pink or red fruit may only be imported in accordance with § 319.56-2dd of this subpart.

(5) *Other conditions.* (i) Must be accompanied by a phytosanitary certificate issued by the NPPO of the country of origin with an additional declaration stating that the commodity is apparently free of *Acrolepiopsis assectella*.

(ii) Entry permitted only from September 15 to May 31, inclusive, to prevent the introduction of a complex of exotic pests including, but not limited to a thrips (*Haplothrips chinensis*) and a leafroller (*Capua tortrix*).

(iii) Must be accompanied by a phytosanitary certificate issued by the NPPO of the country of origin with an additional declaration stating that the fruit is free from *Coccus molestus*, *C. viridis*, *Dysmicoccus neobrevipes*, *Planococcus lilacinus*, *P. minor*, and *Pseudococcus landoi*; and all damaged fruit was removed from the shipment prior to export under the supervision of the NPPO.

(iv) Must be accompanied by a phytosanitary certificate issued by the NPPO of the country of origin with an additional declaration stating that the fruit is free from *Planococcus minor*.

(v) Must be accompanied by a phytosanitary certificate issued by the NPPO of the country of origin with an additional declaration stating that the fruit is of the Malayan dwarf variety or Maypan variety (=F₁ hybrid, Malayan

Dwarf×Panama Tall) (which are resistant to lethal yellowing disease) based on verification of the parent stock.

(vi) Must be accompanied by a phytosanitary certificate issued by the NPPO of the country of origin with an additional declaration stating that the fruit is from an area where citrus canker (*Xanthomonas citri* (Hasse) Dowson) is not known to occur.

(vii) Must be accompanied by a phytosanitary certificate issued by the NPPO of the country of origin and with an additional declaration stating that the fruit is free from *Cnephasia jactatana*, *Coscinoptycha improbana*, *Ctenopseustis obliquana*, *Epiphyas postvittana*, *Pezothrips kellyanus*, and *Planotortrix excessana*; must undergo a port of entry inspection with a biometric sampling of 100 percent of 30 boxes selected randomly from each shipment; and the randomly selected boxes must be examined for hitchhiking pests.

(6) *Plant types.*

(i) Chicory (*Cichorium intybus*) and endive (*Cichorium endiva*) only.

(ii) Rocoto pepper or chamburoto (*Capsicum pubescens*) prohibited.

(iii) Grapefruit (*Citrus paradisi*), lemon (*Citrus limon*), orange (*Citrus sinensis*), sour lime (*Citrus aurantiifolia*), and tangerine (*Citrus reticulata*) only.

(iv) Smooth skinned variety only.

(v) Grapefruit (*Citrus paradisi*), lemon (*Citrus limon*), orange (*Citrus sinensis*), and tangelo (*Citrus reticulata*) only.

(Approved by the Office of Management and Budget under control numbers 0579–0049, 0579–0236, 0579–0264, and 0579–0280)

[69 FR 65059, Nov. 10, 2004, as amended at 70 FR 72888, Dec. 8, 2005; 71 FR 75654, Dec. 18, 2006]

§ 319.56–2u Conditions governing the entry of lettuce and peppers from Israel.

(a) Lettuce may be imported into the United States from Israel without fumigation for leafminers, thrips, and *Sminthurus viridis* only under the following conditions:

(1) *Growing conditions.* (i) The lettuce must be grown in insect-proof houses covered with 50 mesh screens, double self-closing doors, and hard walks (no soil) between the beds;

(ii) The lettuce must be grown in growing media that has been sterilized by steam or chemical means;

(iii) The lettuce must be inspected during its active growth phase and the inspection must be monitored by a representative of the Israeli Ministry of Agriculture;

(iv) The crop must be protected with sticky traps and prophylactic sprays approved for the crop by Israel;

(v) The lettuce must be moved to an insect-proof packing house at night in plastic containers covered by 50 mesh screens;

(vi) The lettuce must be packed in an insect-proof packing house, individually packed in transparent plastic bags, packed in cartons, placed on pallets, and then covered with shrink wrapping; and

(vii) The lettuce must be transported to the airport in a closed refrigerated truck for shipment to the United States.

(2) Each shipment of lettuce must be accompanied by a phytosanitary certificate issued by the Israeli Ministry of Agriculture stating that the conditions of paragraph (a)(1) of this section have been met.

(b) Peppers (fruit) (*Capsicum* spp.) from Israel may be imported into the United States only under the following conditions:

(1) The peppers have been grown the Arava Valley by growers registered with the Israeli Department of Plant Protection and Inspection (DPPI).

(2) Malathion bait sprays shall be applied in the residential areas of the Arava Valley at 6- to 10-day intervals beginning not less than 30 days before the harvest of backyard host material in residential areas and shall continue through harvest.

(3) The peppers have been grown in insect-proof plastic screenhouses approved by the DPPI and APHIS. Houses shall be examined periodically by DPPI or APHIS personnel for tears in either plastic or screening.

(4) Trapping for Mediterranean fruit fly (Medfly) shall be conducted by DPPI throughout the year in the agricultural region along Arava Highway 90 and in the residential area of Paran. The capture of a single Medfly in a screenhouse will immediately cancel

export from that house until the source of the infestation is delimited, trap density is increased, pesticide sprays are applied, or other measures acceptable to APHIS are taken to prevent further occurrences.

(5) Signs in English and Hebrew shall be posted along Arava Highway 90 stating that it is prohibited to throw out/discard fruits and vegetables from passing vehicles.

(6) Sorting and packing of peppers shall be done in the insect-proof screenhouses in the Arava Valley.

(7) Prior to movement from approved insect-proof screenhouses in the Arava Valley, the peppers must be packed in either individual insect-proof cartons or in non-insect-proof cartons that are covered by insect-proof mesh or plastic tarpaulins; covered non-insect-proof cartons must be placed in shipping containers.

(8) The packaging safeguards required by paragraph (b)(7) of this section must remain intact at all times during the movement of the peppers to the United States and must be intact upon arrival of the peppers in the United States.

(9) Each shipment of peppers must be accompanied by a phytosanitary certificate issued by the Israeli national plant protection organization stating that the conditions of paragraphs (b)(1) through (b)(7) of this section have been met.

(Approved by the Office of Management and Budget under control number 0579-0210)

[57 FR 3120, Jan. 28, 1992, as amended at 58 FR 69181, Dec. 30, 1993; 59 FR 46321, Sept. 8, 1994; 60 FR 50385, Sept. 29, 1995; 62 FR 50236, Sept. 25, 1997; 66 FR 45160, Aug. 28, 2001; 67 FR 8180, Feb. 22, 2002; 68 FR 37920, June 25, 2003]

§ 319.56-2v Conditions governing the entry of citrus from Australia.

(a) The Administrator has determined that the irrigated horticultural areas within the following districts of Australia meet the criteria of § 319.56-2(e) and (f) with regard to the Mediterranean fruit fly (*Ceratitis capitata* [Wiedemann]), the Queensland fruit fly (*Bactrocera tryoni* [Frogg]), and other fruit flies destructive of citrus:

(1) The Riverland district of South Australia, defined as the county of Hamley; the geographical subdivisions,

called hundreds, of Bookpurnong, Cadell, Eba, Fisher, Forster, Gordon, Hay, Holder, Katarapko, Loveday, Markaranka, Morook, Murbko, Murtho, Nildottie, Paisley, Parcoola, Paringa, Pooginook, Pyap, Ridley, Skurray, Stuart, and Waikerie; and the Parish of Onley of the Shire of Mildura, Victoria;

(2) The Riverina district of New South Wales, defined as:

(i) The shire of Carrathool; and
(ii) The Murrumbidgee Irrigation Area, which is within the administrative boundaries of the city of Griffith and the shires of Leeton, Narrendera, and Murrumbidgee; and

(3) The Sunraysia district, defined as the shires of Wentworth and Balranald in New South Wales and the shires of Mildura, Swan Hill, Wakool, and Kerang, the cities of Mildura and Swan Hill, and the borough of Kerang in Victoria.

(b) Oranges (*Citrus sinensis* [Osbeck]); lemons (*C. limonia* [Osbeck] and *meyeri* [Tanaka]); limes (*C. aurantiifolia* [Swingle] and *latifolia* [Tanaka]); mandarins, including satsumas, tangerines, tangors, and other fruits grown from this species or its hybrids (*C. reticulata* [Blanco]); and grapefruit (*C. paradisi* [MacFad.]) may be imported from the Riverland, Riverina, and Sunraysia districts without treatment for fruit flies, subject to paragraph (c) of this section and all other applicable requirements of this subpart.

(c) If surveys conducted in accordance with § 319.56-2(f) detect, in a district listed in paragraph (a) of this section, the Mediterranean fruit fly (*Ceratitis capitata* [Wiedemann]), the Queensland fruit fly (*Bactrocera tryoni* [Frogg]), or other fruit flies that attack citrus and for which a treatment is listed in part 305 of this chapter, citrus fruit from that district will remain eligible for importation into the United States in accordance with § 319.56-2(e)(2), provided the fruit undergoes cold treatment in accordance with part 305 of this chapter, and provided the fruit meets all other applicable requirements of this subpart. Entry is limited to ports listed in § 319.56-2d(b)(1) of this subpart if the treatment is to be completed in the United States. Entry may be through any port

if the treatment has been completed in Australia or in transit to the United States. If no approved treatment for the detected fruit fly appears in part 305 of this chapter, importation of citrus from the affected district or districts is prohibited. Irradiation treatments found at part 305 of this chapter may be used as an alternative to the cold treatment described in this paragraph.

[61 FR 8207, Mar. 4, 1996, as amended at 68 FR 37920, June 25, 2003; 70 FR 33326, June 7, 2005; 70 FR 72891, Dec. 8, 2005]

§319.56-2w Administrative instruction; conditions governing the entry of papayas from Central America and Brazil.

The Solo type of papaya may be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands only under the following conditions:

(a) The papayas were grown and packed for shipment to the United States in one of the following locations:

(1) Brazil: State of Espirito Santo; all areas in the State of Bahia that are between the Jequitinhonha River and the border with the State of Espirito Santo and all areas in the State of Rio Grande del Norte that contain the following municipalities: Touros, Pureza, Rio do Fogo, Barra de Maxaranguape, Taipu, Ceara Mirim, Extremoz, Ielmon Marinho, Sao Goncalo do Amarante, Natal, Maciaba, Parnamirim, Veracruz, Sao Jose de Mipibu, Nizia Floresta, Monte Aletre, Areas, Senador Georgino Avelino, Espirito Santo, Goianinha, Tibau do Sul, Vila Flor, and Canguaretama e Baia Formosa.

(2) Costa Rica: Provinces of Guanacaste, Puntarenas, San Jose.

(3) El Salvador: Departments of La Libertad, La Paz, and San Vicente.

(4) Guatemala: Departments of Escuintla, Retalhuleu, Santa Rosa, and Suchitepéquez.

(5) Honduras: Departments of Comayagua, Cortés, and Santa Bárbara.

(6) Nicaragua: Departments of Carazo, Granada, Leon, Managua, Masaya, and Rivas.

(7) Panama: Provinces of Coclé, Herrera, and Los Santos; Districts of

Aleanje, David, and Dolega in the Province of Chiriquí; and all areas in the Province of Panama that are west of the Panama Canal.

(b) Beginning at least 30 days before harvest began and continuing through the completion of harvest, all trees in the field where the papayas were grown were kept free of papayas that were $\frac{1}{2}$ or more ripe (more than $\frac{1}{4}$ of the shell surface yellow), and all culled and fallen fruits were buried, destroyed, or removed from the farm at least twice a week.

(c) The papayas were treated with a hot water treatment consisting of 20 minutes in water at 48 °C (118.4 °F).

(d) When packed, the papayas were less than $\frac{1}{2}$ ripe (the shell surface was no more than $\frac{1}{4}$ yellow, surrounded by light green), and appeared to be free of all injurious insect pests.

(e) The papayas were safeguarded from exposure to fruit flies from harvest to export, including being packaged so as to prevent access by fruit flies and other injurious insect pests. The package containing the papayas does not contain any other fruit, including papayas not qualified for importation into the United States.

(f) All cartons in which papayas are packed must be stamped "Not for importation into or distribution in HI."

(g) All activities described in paragraphs (a) through (f) of this section were carried out under the supervision and direction of plant health officials of the national Ministry of Agriculture.

(h) Beginning at least 1 year before harvest begins and continuing through the completion of harvest, fruit fly traps were maintained in the field where the papayas were grown. The traps were placed at a rate of 1 trap per hectare and were checked for fruit flies at least once weekly by plant health officials of the national Ministry of Agriculture. Fifty percent of the traps were of the McPhail type, and fifty percent of the traps were of the Jackson type. If the average Jackson trap catch was greater than 7 Medflies per trap per week, measures were taken to control the Medfly population in the production area. The national Ministry of Agriculture kept records of fruit fly finds for each trap, updated the records

each time the traps were checked, and made the records available to APHIS inspectors upon request. The records were maintained for at least 1 year.

(i) If the average Jackson trap catch exceeds 14 Medflies per trap per week, importations of papayas from that production area must be halted until the rate of capture drops to an average of 7 or fewer Medflies per trap per week.

(j) In the State of Espirito Santo, Brazil, if the average McPhail trap catch was greater than 7 South American fruit flies (*Anastrepha fraterculus*) per trap per week, measures were taken to control the South American fruit fly population in the production area. If the average McPhail trap catch exceeds 14 South American fruit flies per trap per week, importations of papayas from that production area must be halted until the rate of capture drops to an average of 7 or fewer South American fruit flies per trap per week.

(k) All shipments must be accompanied by a phytosanitary certificate issued by the national Ministry of Agriculture stating that the papayas were grown, packed, and shipped in accordance with the provisions of this section.

(Approved by the Office of Management and Budget under control number 0579–0128)

[63 FR 12396, Mar. 13, 1998, as amended at 66 FR 45160, Aug. 28, 2001; 70 FR 72891, Dec. 8, 2005]

§ 319.56–2x Administrative instructions; conditions governing the entry of certain fruits and vegetables for which treatment is required.

(a) The following fruits and vegetables may be imported into the United States only if they have been treated in accordance with part 305 of this chapter.

Country local- ity	Common name	Botanical name	Plant part(s)
Argentina	Apple	<i>Malus domestica</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).)
	Apricot	<i>Prunus armeniaca</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).)
	Blueberry	<i>Vaccinium</i> spp.	Fruit. (Treatment for Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).)
	Cherry	<i>Prunus avium</i> , <i>P. cerasus</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).)
	Grape	<i>Vitis</i> spp.	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).)
	Kiwi	<i>Actinidia deliciosa</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).)
	Nectarine	<i>Prunus persica</i> var. <i>nucipersica</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).)
	Peach	<i>Prunus persica</i> var. <i>persica</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).)
	Pear	<i>Pyrus communis</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).)
	Plum	<i>Prunus domestica</i> spp. <i>domestica</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).)
	Pomegranate	<i>Punica granatum</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).)
	Quince	<i>Cydonia oblonga</i>	Fruit. (Treatment for <i>Anastrepha</i> spp. fruit flies and Medfly not required if fruit is grown in a fruit fly-free area (see § 319.56–2(j)).)
Bolivia	Blueberry	<i>Vaccinium</i> spp.	fruit.
Chile	Apple	<i>Malus domestica</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly-free area (see § 319.56–2(j)).)

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Country local-ity	Common name	Botanical name	Plant part(s)
	Avocado	<i>Persea americana</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly-free area (see § 319.56–2(j)).)
	Cherry	<i>Prunus avium</i> , <i>P. cerasus</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly-free area (see § 319.56–2(j)).)
Chile	Lemon	<i>Citrus limon</i>	Fruit.
	Lime	<i>Citrus aurantifolia</i> and <i>C. latifolia</i> ..	fruit.
	Mountain pa-paya.	<i>Carica pubescens</i> (=C. <i>candamarcensis</i>).	fruit (Treatment for Mediterranean fruit fly (Medfly) not re-quired if fruit is grown in Medfly free area (see § 319.56–2(j)).)
	Passion fruit	<i>Passiflora</i> spp.	Fruit.
	Pear	<i>Pyrus communis</i>	Fruit. (Treatment for Mediterranean fruit fly (Medfly) not required if fruit is grown in a Medfly-free area (see § 319.56–2(j)).)
	Sandpear	<i>Pyrus pyrifolia</i>	fruit (Treatment for Mediterranean fruit fly (Medfly) not re-quired if fruit is grown in Medfly free area (see § 319.56–2(j)).)
China	Litchi	<i>Litchi chinensis</i>	Fruit or cluster. (Prohibited entry into Florida due to litchi rust mite. Cartons in which litchi are packed must be stamped "Not for importation into or distribution in FL.")
	Longan	<i>Dimocarpus longan</i>	Fruit or cluster
Colombia	Blueberry	<i>Vaccinium</i> spp.	Fruit.
	Cape goose-berry.	<i>Physalis peruviana</i>	Fruit.
	Yellow pitaya	<i>Selenicereus megalanthus</i>	Fruit.
Dominican Republic.	Pigeon peas	<i>Cajanus cajan</i>	Pod or shelled (Treatment not required for pigeon peas (in the pod or fresh shelled) imported into Puerto Rico.)
Ecuador	Blueberry	<i>Vaccinium</i> spp.	fruit.
El Salvador ...	Green bean ..	<i>Phaseolus vulgaris</i>	Pod or shelled.
Greece	Kiwi	<i>Actinidia deliciosa</i>	fruit.
	Tangerine	<i>Citrus reticulata</i>	fruit.
Guatemala	Tuna	<i>Opuntia</i> spp.	fruit.
Guyana	Apple	<i>Malus domestica</i>	fruit.
Honduras	Hyacinth bean.	<i>Lablab purpureus</i>	Pod or shelled.
	Yard long bean.	<i>Vigna unguiculata</i> , subsp. <i>sesquipedalis</i> .	Pod or shelled
India	Litchi	<i>Litchi chinensis</i>	Fruit or cluster (Prohibited entry into Florida due to litchi rust mite. Cartons in which litchi are packed must be stamped "Not for importation into or distribution in FL.")
Israel	Lettuce	<i>Lactuca sativa</i>	leaf (Treatment for leafminers, thrips, and <i>Sminthuris viridis</i> not required if the lettuce si imported in accordance with § 319.56–2u(a)).
	Litchi	<i>Litchi chinensis</i>	Fruit or cluster. (Prohibited entry into Florida due to litchi rust mite. Cartons in which litchi are packed must be stamped "Not for importation into or distribution in FL.")
	Loquat	<i>Eriobotrya japonica</i>	fruit.
	Pummelo	<i>Citrus grandis</i>	fruit.
	Tuna	<i>Opuntia</i> spp.	Fruit.
Italy	Kiwi	<i>Actinidia deliciosa</i>	Fruit.
Jordan	Apple	<i>Malus domestica</i>	fruit.
	Grape	<i>Vitis</i> spp.	fruit.
	Persimmon ..	<i>Diospyros</i> spp.	fruit.
Lebanon	Apple	<i>Malus domestica</i>	fruit.
Mexico	Carambola ..	<i>Averrhoa carambola</i>	Fruit.
	Cherry	<i>Prunus avium</i>	fruit.
	Grapefruit	<i>Citrus paradisi</i>	fruit.
	Mango	<i>Mangifera indica</i>	Fruit. (Must be accompanied by a phytosanitary certificate issued by the national plant protection organization of Mexico stating: "These mangoes were treated in accordance with the Plant Protection and Quarantine Treatment Manual," unless fruit was grown in a fruit fly-free area listed in § 319.56–2(h).)
	Orange	<i>Citrus sinensis</i>	fruit.
	Tangerine	<i>Citrus reticulata</i>	fruit.
Nicaragua	Broad bean ..	<i>Vicia faba</i>	Pod or shelled.
	Green bean ..	<i>Phaseolus</i> spp.	Pod or shelled.
	Mung bean ..	<i>Vigna radiata</i>	Pod or shelled.
	Yard-long-bean.	<i>Vigna unguiculata</i>	Pod.
Panama	Bean, green and lima.	<i>Phaseolus vulgaris</i> and <i>P. lunatus</i>	pod.

Country local- ity	Common name	Botanical name	Plant part(s)
Peru	Blueberry	<i>Vaccinium</i> spp.	fruit.
Republic of South Africa.	Apple	<i>Malus domestica</i>	Fruit.
Spain	Grape	<i>Vitis</i> spp.	Fruit.
	Kiwi	<i>Actinidia deliciosa</i>	Fruit.
	Lettuce	<i>Lactuca</i> spp.	Above ground parts, commercial shipments only.
	Persimmon ...	<i>Diospyros khaki</i>	Fruit.
Taiwan	Carambola ...	<i>Averrhoa carambola</i>	fruit.
	Litchi	<i>Litchi chinensis</i>	Fruit or cluster. (Prohibited entry into Florida due to litchi rust mite. Cartons in which litchi are packed must be stamped "Not for importation into or distribution in FL.")
Thailand	Mango	<i>Mangifera indica</i>	fruit.
Uruguay	Asparagus ...	<i>Asparagus officinalis</i>	shoot.
Zimbabwe	Plum	<i>Prunus domestica</i>	fruit.
	Apple	<i>Malus domestica</i>	fruit.
	Apricot	<i>Prunus armeniaca</i>	fruit.
	Kiwi	<i>Actinidia deliciosa</i>	fruit.
	Nectarine	<i>Prunus persica</i>	fruit.
	Peach	<i>Prunus persica</i>	fruit.
	Pear	<i>Pyrus communis</i>	fruit.
	Plum	<i>Prunus domestica</i>	fruit.

(b) If treatment has not been completed before the fruits and vegetables arrive in the United States, fruits and vegetables listed in the table in this section and requiring treatment for fruit flies may arrive in the United States only at a port listed in § 319.56–2d(b)(1) of this subpart.

[57 FR 54491, Nov. 19, 1992, as amended at 58 FR 69181, Dec. 30, 1993; 59 FR 40796, Aug. 10, 1994; 59 FR 43712, Aug. 25, 1994; 60 FR 6958, Feb. 6, 1995; 60 FR 14209, Mar. 16, 1995; 60 FR 50385, Sept. 29, 1995; 61 FR 47667, Sept. 10, 1996; 62 FR 597, Jan. 6, 1997; 66 FR 45161, Aug. 28, 2001; 67 FR 8180, Feb. 22, 2002; 67 FR 65029, Oct. 23, 2002; 68 FR 2684, Jan. 21, 2003; 68 FR 6544, Feb. 7, 2003; 68 FR 37920, June 25, 2003; 70 FR 33326, June 7, 2005; 70 FR 72891, Dec. 8, 2005; 71 FR 75657, Dec. 18, 2006]

§ 319.56–2y Conditions governing the entry of melon and watermelon from certain countries in South America.

(a) *Cantaloupe and watermelon from Ecuador.* Cantaloupe (*Cucumis melo*) and watermelon (fruit) (*Citrullus lanatus*) may be imported into the United States from Ecuador only in accordance with this paragraph and all other applicable requirements of this subpart:

(1) The cantaloupe or watermelon may be imported in commercial shipments only.

(2) The cantaloupe or watermelon must have been grown in an area where trapping for the South American

cucurbit fly (*Anastrepha grandis*) has been conducted for at least the previous 12 months by the national plant protection organization (NPPO) of Ecuador, under the direction of APHIS, with no findings of the pest.⁷

(3) The following area meets the requirements of paragraph (a)(2) of this section: The area within 5 kilometers of either side of the following roads:

(i) Beginning in Guayaquil, the road north through Nobol, Palestina, and Balzar to Velasco-Ibarra (Empalme);

(ii) Beginning in Guayaquil, the road south through El 26, Puerto Inca, Naranjal, and Camilo Ponce to Enriquez;

(iii) Beginning in Guayaquil, the road east through Palestina to Vines;

(iv) Beginning in Guayaquil, the road west through Piedrahita (Novol) to Pedro Carbo; or

(v) Beginning in Guayaquil, the road west through Progreso, Engunga, Tugaduaaja, and Zapotal to El Azucar.

(4) The cantaloupe or watermelon may not be moved into Alabama, American Samoa, Arizona, California, Florida, Georgia, Guam, Hawaii, Louisiana, Mississippi, New Mexico, Puerto Rico, South Carolina, Texas, and the

⁷Information on the trapping program may be obtained by writing to the Animal and Plant Health Inspection Service, International Services, Stop 3432, 1400 Independence Avenue SW., Washington, DC 20250–3432.

U.S. Virgin Islands. The boxes in which the cantaloupe or watermelon is packed must be stamped with the name of the commodity followed by the words “Not to be distributed in the following States or territories: AL, AS, AZ, CA, FL, GA, GU, HI, LA, MS, NM, PR, SC, TX, VI”.

(b) *Cantaloupe, honeydew melons, and watermelon from Brazil.* Cantaloupe, honeydew melons, and watermelon may be imported into the United States from Brazil only in accordance with this paragraph and all other applicable requirements of this subpart:

(1) The cantaloupe, honeydew melons, or watermelon must have been grown in the area of Brazil considered by APHIS to be free of the South American cucurbit fly in accordance with § 319.56–2(e)(4) of this subpart.

(i) The following area in Brazil is considered free of the South American cucurbit fly: That portion of Brazil bounded on the north by the Atlantic Ocean; on the east by the River Assu (Acu) from the Atlantic Ocean to the city of Assu; on the south by Highway BR 304 from the city of Assu (Acu) to Mossoro, and by Farm Road RN-015 from Mossoro to the Ceara State line; and on the west by the Ceara State line to the Atlantic Ocean.

(ii) All shipments of cantaloupe, honeydew melons, and watermelon must be accompanied by a phytosanitary certificate issued by the NPPO of Brazil that includes a declaration indicating that the fruit was grown in an area recognized to be free of the South American cucurbit fly.

(2) The cantaloupe, honeydew melons, and watermelon must be packed in an enclosed container or vehicle, or must be covered by a pest-proof screen or plastic tarpaulin while in transit to the United States.

(3) All shipments of cantaloupe, honeydew melons, and watermelon must be labeled in accordance with § 319.56–2(g) of this subpart.

(c) *Cantaloupe, honeydew melons, and watermelon from Venezuela.* Cantaloupe, honeydew melons, and watermelon may be imported into the United States from Venezuela only in accordance with this paragraph and all other applicable requirements of this subpart:

(1) The cantaloupe, honeydew melons, or watermelon must have been grown in the area of Venezuela considered by APHIS to be free of the South American cucurbit fly in accordance with § 319.56–2(e)(4) of this subpart.

(i) The following area in Venezuela is considered free of the South American cucurbit fly: The Paraguaná Peninsula, located in the State of Falcon, bounded on the north and east by the Caribbean Ocean, on the south by the Gulf of Coro and an imaginary line dividing the autonomous districts of Falcon and Miranda, and on the west by the Gulf of Venezuela.

(ii) All shipments of cantaloupe, honeydew melons, and watermelon must be accompanied by a phytosanitary certificate issued by the NPPO of Venezuela that includes a declaration indicating that the fruit was grown in an area recognized to be free of the South American cucurbit fly.

(2) The cantaloupe, honeydew melons, and watermelon must be packed in an enclosed container or vehicle, or must be covered by a pest-proof screen or plastic tarpaulin while in transit to the United States.

(3) All shipments of cantaloupe, honeydew melons, and watermelon must be labeled in accordance with § 319.56–2(g) of this subpart.

(d) *Cantaloupe, netted melon, vegetable melon, winter melon, and watermelon from Peru.* Cantaloupe, netted melon, vegetable melon, and winter melon (*Cucumis melo* L. subsp. *melo*); and watermelon may be imported into the United States from Peru only in accordance with this paragraph and all other applicable requirements of this subpart:

(1) The fruit may be imported in commercial shipments only.

(2) The fruit must have been grown in the area of Peru considered by APHIS to be free of the South American cucurbit fly in accordance with § 319.56–2(e)(4) of this subpart.

(i) The Departments of Lima, Ica, Arequipa, Moquegua, and Tacna in Peru are considered free of the South American cucurbit fly.

(ii) All shipments must be accompanied by a phytosanitary certificate issued by the NPPO of Peru that includes a declaration indicating that

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the fruit was grown in an area recognized to be free of the South American cucurbit fly, and upon inspection, was found free of the gray pineapple mealybug (*Dysmicoccus neobrevipes*).

(3) The fruit must be packed in an enclosed container or vehicle, or must be covered by a pest-proof screen or plastic tarpaulin while in transit to the United States.

(4) All shipments of fruit must be labeled in accordance with § 319.56–2(g) of this subpart, and the boxes in which the fruit is packed must be labeled “Not for distribution in HI, PR, VI, or Guam.”

(Approved by the Office of Management and Budget under control number 0579–0236)

[69 FR 65065, Nov. 10, 2004]

§ 319.56–2z Administrative instructions governing the entry of cherimoyas from Chile.

Cherimoyas may be imported into the United States from Chile only under the following conditions:

(a) *Treatment.* The cherimoyas must be treated, under the supervision of an inspector, either in Chile or in the United States, for the Chile false red mite of grapes (*Brevipalpus chilensis*) in accordance with one of the following procedures:

(1) *Fumigation.* The cherimoyas must be fumigated with methyl bromide at normal atmospheric pressure. The fumigation must be done in a fumigation chamber that has been approved for that purpose by the Animal and Plant Health Inspection Service, or under tarpaulins, according to the schedule below. The treatment period must be 2 hours.

Temperature (°F.)	Dosage—pounds of methyl bromide per 1,000 cu. ft.
80–89 (inclusive)	1½
70–79 (inclusive)	2
60–69 (inclusive)	2½
50–59 (inclusive)	3

(2) *Soapy water and wax.* The cherimoyas must be immersed in a soapy water bath consisting of 1 part soap solution (such as Deterfrut) to 3,000 parts water for a minimum of 20 seconds, followed by a pressure shower

rinse to remove soapy excess, and then followed by immersion for a minimum of 20 seconds in an undiluted wax coating (such as Johnson Wax Primafresh 31 Kosher fruit coating).

(b) *APHIS inspection.* Cherimoyas from Chile are subject to inspection under the direction of an inspector, either in Chile or at the port of arrival in the United States. Imported cherimoyas inspected in Chile are subject to reinspection at the port of arrival as provided for in § 319.56–6.

(c) *Trust Fund Agreement.* Cherimoyas that are treated or inspected in Chile may be imported into the United States only if the plant protection service of Chile (Servicio Agrícola Y Ganadero, referred to in this section as SAG) has entered into a trust fund agreement with APHIS. This agreement requires SAG to pay in advance of each shipping season all costs that APHIS estimates it will incur in providing inspection services in Chile during that shipping season. These costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS in performing these services. The agreement requires SAG to deposit a certified or cashier's check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires SAG to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before any more cherimoyas will be treated or inspected in Chile. After a final audit at the conclusions of each shipping season, any overpayment of funds would be returned to SAG, or held on account until needed, at SAG's option.

(d) *Costs for services in the United States.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruits or a representative of the owner.

(e) *Limitation of origin.* The cherimoyas must have been grown in a

province of Chile that is free from the Mediterranean fruit fly (see § 319.56-2(j)).

(f) *Ports of entry.* Cherimoyas from Chile may be imported through all ports staffed by an inspector.⁸

(g) *Department not responsible for damage.* The treatments prescribed in paragraph (a) of this section are judged from experimental tests to be safe for use with cherimoyas from Chile. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (a) of this section.

[57 FR 56436, Nov. 30, 1992, as amended at 59 FR 67610, Dec. 30, 1994; 68 FR 37921, June 25, 2003]

§ 319.56-2aa Conditions governing the entry of watermelon, squash, cucumber, and oriental melon from the Republic of Korea.

Watermelon (*Citrullus lanatus*), squash (*Curcubita maxima*), cucumber (*Cucumis sativus*), and oriental melon (*Cucumis melo*) may be imported into the United States from the Republic of Korea only in accordance with this paragraph and all other applicable requirements of this subpart:

(a) The fruit must be grown in pest-proof greenhouses registered with the Republic of Korea's national plant protection organization (NPPO).

(b) The NPPO must inspect and regularly monitor greenhouses for plant pests. The NPPO must inspect greenhouses and plants, including fruit, at intervals of no more than 2 weeks, from the time of fruit set until the end of harvest.

(c) The NPPO must set and maintain McPhail traps (or a similar type with a protein bait that has been approved for the pests of concern) in greenhouses from October 1 to April 30. The number of traps must be set as follows: Two traps for greenhouses smaller than 0.2 hectare in size; three traps for green-

houses 0.2 to 0.5 hectare; four traps for greenhouses over 0.5 hectare and up to 1.0 hectare; and for greenhouses greater than 1 hectare, traps must be placed at a rate of four traps per hectare.

(d) The NPPO must check all traps once every 2 weeks. If a single pumpkin fruit fly is captured, that greenhouse will lose its registration until trapping shows that the infestation has been eradicated.

(e) The fruit may be shipped only from December 1 through April 30.

(f) Each shipment must be accompanied by a phytosanitary certificate issued by NPPO, with the following additional declaration: "The regulated articles in this shipment were grown in registered greenhouses as specified by 7 CFR 319.56-2aa."

(g) Each shipment must be protected from pest infestation from harvest until export. Newly harvested fruit must be covered with insect-proof mesh or a plastic tarpaulin while moving to the packinghouse and awaiting packing. Fruit must be packed within 24 hours of harvesting, in an enclosed container or vehicle or in insect-proof cartons or cartons covered with insect-proof mesh or plastic tarpaulin, and then placed in containers for shipment. These safeguards must be intact when the shipment arrives at the port in the United States.

(Approved by the Office of Management and Budget under control number 0579-0236)

[69 FR 65065, Nov. 10, 2004]

§ 319.56-2bb Conditions governing the entry of shelled garden peas from Kenya.

Garden peas (*Pisum sativum*) may be imported into the continental United States from Kenya only under the following conditions:

(a) The peas must be shelled from the pod.

(b) The peas must be washed in disinfectant water at 3 to 5 °C containing 50 ppm chlorine.

(c) Each shipment of peas must be accompanied by a phytosanitary certificate of inspection issued by the national plant protection organization of Kenya bearing the following additional declaration: "These peas have been shelled and washed in accordance with

⁸Information concerning ports staffed by inspectors may be obtained by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236.

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(Approved by the Office of Management and Budget under control number 0579-0302)

[71 FR 62198, Oct. 24, 2006]

§ 319.56-2cc Administrative instructions governing the entry of Fuji variety apples from Japan and the Republic of Korea.

Fuji variety apples may be imported into the United States from Japan and the Republic of Korea only under the following conditions:

(a) *Treatment and fumigation.* The apples must be cold treated and then fumigated, under the supervision of an Animal and Plant Health Inspection Service (APHIS) inspector, either in Japan or the Republic of Korea, for the peach fruit moth (*Carposina niponensis*), the yellow peach moth (*Conogethes punctiferalis*), the fruit tree spider mite (*Tetranychus viennensis*), and the kanzawa mite (*T. kanzawai*), in accordance with part 305 of this chapter.

(b) *APHIS inspection.* The apples must be inspected upon completion of the treatments required by paragraph (a) of this section, prior to export from Japan or the Republic of Korea, by an APHIS inspector and an inspector from the national plant protection agency of Japan or the Republic of Korea. The apples shall be subject to further disinfection in the exporting country if plant pests are found prior to export. Imported Fuji variety apples inspected in Japan or the Republic of Korea are also subject to inspection and disinfection at the port of first arrival, as provided in § 319.56-6.

(c) *Trust fund agreements.* The national plant protection agency of the exporting country must enter into a trust fund agreement with APHIS before APHIS will provide the services necessary for Fuji variety apples to be imported into the United States from Japan or the Republic of Korea. The agreement requires the national plant protection agency to pay in advance of each shipping season all costs that APHIS estimates it will incur in providing services in Japan or the Republic of Korea during that shipping season. These costs include administrative expenses and all salaries (including overtime and the Federal share of em-

ployee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS in performing these services. The agreement requires the national plant protection agency to deposit a certified or cashiers check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the national plant protection agency to deposit with APHIS a certified or cashiers check for the amount of the remaining costs, as determined by APHIS, before APHIS will provide any more services necessary for Fuji variety apples to be imported into the United States from that country. After a final audit at the conclusion of each shipping season, any overpayment of funds will be returned to the national plant protection agency, or held on account until needed, at that agency's option.

(d) *Department not responsible for damage.* The treatments prescribed in paragraph (a) of this section are judged from experimental tests to be safe for use with Fuji variety apples from Japan and the Republic of Korea. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (a) or (b) of this section.

[59 FR 42154, Aug. 17, 1994, as amended at 70 FR 33326, June 7, 2005]

§ 319.56-2dd Administrative instructions: conditions governing the entry of tomatoes.

(a) *Tomatoes (fruit) (*Lycopersicon esculentum*) from Spain.* Pink or red tomatoes may be imported into the United States from Spain only under the following conditions:⁹

(1) The tomatoes must be grown in the Almeria Province, the Murcia Province, or the municipalities of Albuñol and Carchuna in the Granada

⁹The surface area of a pink tomato is more than 30 percent but not more than 60 percent pink and/or red. The surface area of a red tomato is more than 60 percent pink and/or red. Green tomatoes may be imported in accordance with § 319.56-2t of this subpart.

Province of Spain in greenhouses registered with, and inspected by, the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF);

(2) The tomatoes may be shipped only from December 1 through April 30, inclusive;

(3) Two months prior to shipping, and continuing through April 30, MAFF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In all areas outside the greenhouses and within 8 kilometers, including urban and residential areas, MAFF must place Medfly traps at a rate of four traps per square kilometer. All traps must be checked every 7 days;

(4) Capture of a single Medfly in a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of infestation is determined, the Medfly infestation is eradicated, and measures are taken to preclude any future infestation. Capture of a single Medfly within 2 kilometers of a registered greenhouse will necessitate increasing trap density in order to determine whether there is a reproducing population in the area. Capture of two Medflies within 2 kilometers of a registered greenhouse and within a 1-month time period will result in cancellation of exports from all registered greenhouses within 2 kilometers of the find until the source of infestation is determined and the Medfly infestation is eradicated;

(5) MAFF must maintain records of trap placement, checking of traps, and any Medfly captures, and must make the records available to APHIS upon request;

(6) The tomatoes must be packed within 24 hours of harvest. They must be safeguarded from harvest to export by insect-proof mesh screens or plastic tarpaulins, including while in transit to the packing house and while awaiting packaging. They must be packed in insect-proof cartons or covered by insect-proof mesh or plastic tarpaulins for transit to the airport and subsequent export to the United States. These safeguards must be intact upon arrival in the United States; and

(7) MAFF is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by MAFF and bearing the declaration, "These tomatoes were grown in registered greenhouses in Almeria Province, the Murcia Province, or the municipalities of Albuñol and Carchuna in the Granada Province in Spain."

(b) *Tomatoes (fruit) (*Lycopersicon esculentum*) from France.* Pink or red tomatoes may be imported into the United States from France only under the following conditions:¹⁰

(1) The tomatoes must be grown in the Brittany Region of France in greenhouses registered with, and inspected by, the Service de la Protection Vegetaux (SRPV);

(2) From June 1 through September 30, SRPV must set and maintain one Medfly trap baited with trimedlure inside and one outside each greenhouse and must check the traps every 7 days;

(3) Capture of a single Medfly inside or outside a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of the infestation is determined, the Medfly infestation is eradicated, and measures are taken to preclude any future infestation;

(4) SRPV must maintain records of trap placement, checking of traps, and any Medfly captures, and must make them available to APHIS upon request;

(5) From June 1 through September 30, the tomatoes must be packed within 24 hours of harvest. They must be safeguarded by insect-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing. They must be packed in insect-proof cartons or covered by insect-proof mesh screen or plastic tarpaulin. These safeguards must be intact upon arrival in the United States; and

(6) SRPV is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate

¹⁰See footnote 9 in paragraph (a) of this section.

issued by SRPV and bearing the declaration, “These tomatoes were grown in registered greenhouses in the Brittany Region of France.”

(c) *Tomatoes (fruit) (Lycopersicon esculentum) from Morocco and Western Sahara.* Pink tomatoes may be imported into the United States from Morocco and Western Sahara only under the following conditions:¹¹

(1) The tomatoes must be grown in the provinces of El Jadida or Safi in Morocco or in the province of Dahkla in Western Sahara in insect-proof greenhouses registered with, and inspected by, the Moroccan Ministry of Agriculture, Division of Plant Protection, Inspection, and Enforcement (DPVCTRF);

(2) The tomatoes may be shipped from Morocco and Western Sahara only between December 1 and April 30, inclusive;

(3) Beginning 2 months prior to the start of the shipping season and continuing through the end of the shipping season, DPVCTRF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In Morocco, traps must also be placed outside registered greenhouses within a 2 kilometer radius at a rate of four traps per square kilometer. In Western Sahara, a single trap must be placed outside in the immediate proximity of each registered greenhouse. All traps in Morocco and Western Sahara must be checked every 7 days;

(4) DPVCTRF must maintain records of trap placement, checking of traps, and any Medfly captures, and make the records available to APHIS upon request;

(5) Capture of a single Medfly in a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of the infestation is determined, the Medfly infestation has been eradicated, and measures are taken to preclude any future infestation. Capture of a single Medfly within 200 meters of a registered greenhouse will necessitate increasing trap density in order to determine whether there is a reproducing

population in the area. Six additional traps must be placed within a radius of 200 meters surrounding the trap where the Medfly was captured. Capture of 2 Medflies within 200 meters of a registered greenhouse and within a 1-month time period will necessitate Malathion bait sprays in the area every 7 to 10 days for 60 days to ensure eradication;

(6) The tomatoes must be packed within 24 hours of harvest and must be pink at the time of packing. They must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing. They must be packed in insect-proof cartons or covered by insect-proof mesh or plastic tarpaulin for transit to the airport and export to the United States. These safeguards must be intact upon arrival in the United States; and

(7) EACCE is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by EACCE and bearing the declaration, “These tomatoes were grown in registered greenhouses in El Jadida or Safi Province, Morocco, and were pink at the time of packing” or “These tomatoes were grown in registered greenhouses in Dahkla Province, Western Sahara and were pink at the time of packing.”

(d) *Tomatoes from Chile.* Tomatoes (fruit) (*Lycopersicon esculentum*) from Chile, whether green or at any stage of ripeness, may be imported into the United States with treatment in accordance with paragraph (d)(1) of this section or if produced in accordance with the systems approach described in paragraph (d)(2) of this section.

(1) *With treatment.* (i) The tomatoes must be treated in Chile with methyl bromide in accordance with part 305 of this chapter. The treatment must be conducted in facilities registered with the Servicio Agrícola y Ganadero (SAG) and with APHIS personnel monitoring the treatments;

(ii) The tomatoes must be treated and packed within 24 hours of harvest. Once treated, the tomatoes must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in

¹¹See footnote 9 in paragraph (a) of this section.

transit to the packing house and awaiting packing. They must be packed in insect-proof cartons or insect-proof mesh or plastic tarpaulin under APHIS monitoring for transit to the airport and subsequent export to the United States. These safeguards must be intact upon arrival in the United States; and

(iii) Tomatoes may be imported into the United States from Chile with treatment in accordance with this paragraph (d)(1) only if SAG has entered into a trust fund agreement with APHIS for that shipping season. This agreement requires SAG to pay in advance all costs that APHIS estimates it will incur in providing the preclearance services prescribed in this section for that shipping season. These costs will include administrative expenses incurred in conducting the preclearance services; and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in providing these services. The agreement requires SAG to deposit a certified or cashier's check with APHIS for the amount of these costs for the entire shipping season, as estimated by APHIS based on projected shipment volumes and cost figures from previous inspections. The agreement further requires that, if the initial deposit is not sufficient to meet all costs incurred by APHIS, SAG must deposit with APHIS another certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the inspections will be completed. The agreement also requires that, in the event of unexpected end-of-season costs, SAG must deposit with APHIS a certified cashier's check sufficient to meet such costs as estimated by APHIS, before any further preclearance services will be provided. If the amount SAG deposits during a shipping season exceeds the total cost incurred by APHIS in providing preclearance services, the difference will be returned to SAG by APHIS at the end of the shipping season.

(2) *Systems approach.* The tomatoes may be imported without fumigation for *Tuta absoluta*, *Rhagoletis tomatis*, and Mediterranean fruit fly (Medfly,

Ceratitis capitata) if they meet the following conditions:

(i) The tomatoes must be grown in approved production sites that are registered with SAG. Initial approval of the production sites will be completed jointly by SAG and APHIS. SAG will visit and inspect the production sites monthly, starting 2 months before harvest and continue until the end of the shipping season. APHIS may monitor the production sites at any time during this period.

(ii) Tomato production sites must consist of pest-exclusionary greenhouses, which must have self-closing double doors and have all other openings and vents covered with 1.6 mm (or less) screening.

(iii) The tomatoes must originate from a Medfly free area (see § 319.56-2(j)) of Chile or an area where Medfly trapping occurs. Production sites in areas where Medfly is known to occur must contain traps for both Medfly and *Rhagoletis tomatis* in accordance with paragraphs (d)(2)(iii) and (d)(2)(iv) of this section. Production sites in all other areas do not require trapping for Medfly. The trapping protocol for the detection of Medfly in infested areas is as follows:

(A) McPhail traps with an approved protein bait must be used within registered greenhouses. Traps must be placed inside greenhouses at a density of 4 traps/10 ha, with a minimum of at least two traps per greenhouse.

(B) Medfly traps with trimedlure must be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap/10 ha and a minimum of 10 traps. These traps must be checked at least every 7 days. At least one of these traps must be near a greenhouse. Traps must be set for at least 2 months before export and trapping and continue to the end of the harvest season.

(C) Medfly prevalence levels in the surrounding areas must be 0.7 Medflies per trap per week or lower. If levels exceed this before harvest, the production site will be prohibited from shipping under the systems approach. If the levels exceed this after the 2 months prior to harvest, the production site would be prohibited from shipping under the systems approach until

APHIS and the NPPO of Chile agree that the pest risk has been mitigated.

(iv) Registered production sites must contain traps for *Rhagoletis tomatitis* in accordance with the following provisions:

(A) McPhail traps with an approved protein bait must be used within registered greenhouses. Traps must be placed inside greenhouses at a density of 4 traps/10 ha, with a minimum of at least two traps per greenhouse. Traps inside greenhouses will use the same bait for Medfly and *Rhagoletis tomatitis* because the bait used for *R. tomatitis* is sufficient for attracting both types of fruit fly within the confines of a greenhouse; therefore, it is unnecessary to repeat this trapping protocol in production sites in areas where Medfly is known to occur.

(B) McPhail traps with an approved protein bait must be placed inside a 500 meter buffer zone at a density of 1 trap/10 ha surrounding the production site. At least one of the traps must be near a greenhouse. Traps must be set for at least 2 months before export until the end of the harvest season and must be checked at least every 7 days. In areas where Medfly trapping is required, traps located outside of greenhouses must contain different baits for Medfly and *Rhagoletis tomatitis*. There is only one approved bait for *R. tomatitis* and the bait is not strong enough to lure Medfly when used outside greenhouses; therefore, separate traps must be used for each type of fruit fly present in the area surrounding the greenhouses.

(C) If within 30 days of harvest a single *Rhagoletis tomatitis* is captured inside the greenhouse or in a consignment or if two *R. tomatitis* are captured or detected in the buffer zone, shipments from the production site will be suspended until APHIS and SAG determine that risk mitigation is achieved.

(v) Registered production sites must conduct regular inspections for *Tuta absoluta* throughout the harvest season and find these areas free of *T. absoluta* evidence (e.g., eggs or larvae). If within 30 days of harvest, two *Tuta absoluta* are captured inside the greenhouse or a single *T. absoluta* is found inside the fruit or in a consignment, shipments from the production site would be sus-

pended until APHIS and SAG determine that risk mitigation is achieved.

(vi) SAG will ensure that populations of *Liriomyza huidobrensis* inside greenhouses are well managed by doing inspections during the monthly visits specifically for *L. huidobrensis* mines in the leaves and for visible external pupae or adults. If *L. huidobrensis* is found to be generally infesting the production site, shipments from the production site would be suspended until APHIS and SAG agree that risk mitigation is achieved.

(vii) All traps must be placed at least 2 months prior to harvest and be maintained throughout the harvest season and be monitored and serviced weekly.

(viii) SAG must maintain records of trap placement, checking of traps, and of any *Rhagoletis tomatitis* or *Tuta absoluta* captures for 1 year for APHIS review. SAG must maintain an APHIS approved quality control program to monitor or audit the trapping program. APHIS must be notified when a production site is removed from or added to the program.

(ix) The tomatoes must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. The tomatoes must be safeguarded by a pest-proof screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. Tomatoes must be packed in insect-proof cartons or containers or covered with insect-proof mesh or plastic tarpaulin for transit to the United States. These safeguards must remain intact until arrival in the United States.

(x) During the time the packinghouse is in use for exporting fruit to the United States, the packinghouse may only accept fruit from registered approved production sites.

(xi) SAG is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by SAG with an additional declaration, "These tomatoes were grown in an approved production site in Chile." The shipping box must be labeled with the identity of the production site.

(e) *Tomatoes from Australia*. Tomatoes (fruit) (*Lycopersicon esculentum*) may be

imported into the United States from Australia only under the following conditions:

(1) The tomatoes must be grown in greenhouses registered with, and inspected by, the Australian Quarantine Inspection Service (AQIS);

(2) Two months prior to shipping, AQIS must inspect the greenhouse to establish its freedom from the following quarantine pests: *Bactrocera aquilonis*, *B. cucumis*, *B. jarvis*, *B. neohumeralis*, *B. tryoni*, *Ceratitis capitata*, *Chrysodeixis argentifera*, *C. erisoma*, *Helicoverpa armigera*, *H. punctigera*, *Lamprolonchaea brouniana*, *Scelioles cordalis*, and *Spodoptera litura*. AQIS must also set and maintain fruit fly traps inside the greenhouses and around the perimeter of the greenhouses. Inside the greenhouses, the traps must be APHIS-approved fruit fly traps, and they must be set at the rate of six per hectare. In all areas outside the greenhouse and within 8 kilometers of the greenhouse, fruit fly traps must be placed on a 1 kilometer grid. All traps must be checked at least every 7 days;

(3) Within a registered greenhouse, capture of a single fruit fly or other quarantine pest will result in immediate cancellation of exports from that greenhouse until the source of the infestation is determined, the infestation has been eradicated, and measures are taken to preclude any future infestation;

(4) Outside of a registered greenhouse, if one fruit fly of the species specified in paragraph (e)(2) of this section is captured, the trap density and frequency of trap inspection must be increased to detect a reproducing colony. Capture of two Medflies or three of the same species of *Bactrocera* within 2 kilometers of each other and within 30 days will result in the cancellation of exports from all registered greenhouses within 2 kilometers of the finds until the source of the infestation is determined and the fruit fly infestation is eradicated;

(5) AQIS must maintain records of trap placement, checking of traps, and any fruit fly captures, and must make the records available to APHIS upon request;

(6) The tomatoes must be packed within 24 hours of harvest. They must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packing house or while awaiting packing. They must be placed in insect-proof cartons or securely covered with insect-proof mesh or plastic tarpaulin for transport to the airport or other shipping point. These safeguards must be intact upon arrival in the United States; and

(7) Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by AQIS stating "These tomatoes were grown, packed, and shipped in accordance with the requirements of § 319.56-2dd(e) of 7 CFR."

(f) *Tomatoes (fruit) (Lycopersicon esculentum) from certain countries in Central America.* Pink or red tomatoes may be imported into the United States from Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama only under the following conditions:

(1) From areas free of Mediterranean fruit fly:

(i) The tomatoes must be grown and packed in an area that has been determined by APHIS to be free of Mediterranean fruit fly (Medfly) in accordance with the procedures described in § 319.56-2(f) of this subpart.

(ii) A pre-harvest inspection of the production site must be conducted by the national plant protection organization (NPPO) of the exporting country for pea leafminer, tomato fruit borer, and potato spindle tuber viroid. If any of these pests are found to be generally infesting the production site, the NPPO may not allow exports from that production site until the NPPO and APHIS have determined that risk mitigation has been achieved.

(iii) The tomatoes must be packed in insect-proof cartons or containers or covered with insect-proof mesh or plastic tarpaulin at the packinghouse for transit to the United States. These safeguards must remain intact until arrival in the United States.

(iv) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by the

NPPO and bearing the declaration, “These tomatoes were grown in an area recognized to be free of Medfly and the shipment has been inspected and found free of the pests listed in the requirements.”

(2) From areas where Medfly is considered to exist:

(i) The tomatoes must be grown in approved registered production sites. Initial approval of the production sites will be completed jointly by the exporting country’s NPPO and APHIS. The exporting country’s NPPO must visit and inspect the production sites monthly starting 2 months before harvest and continuing through until the end of the shipping season. APHIS may monitor the production sites at any time during this period.

(ii) Tomato production sites must consist of pest-exclusionary greenhouses, which must have self-closing double doors and have all other openings and vents covered with 1.6 (or less) mm screening.

(iii) Registered sites must contain traps for the detection of Medfly both within and around the production site as follows:

(A) Traps with an approved protein bait for Medfly must be placed inside the greenhouses at a density of four traps per hectare, with a minimum of two traps per greenhouse. Traps must be serviced on a weekly basis.

(B) If a single Medfly is detected inside a registered production site or in a consignment, the registered production site will lose its ability to export tomatoes to the United States until APHIS and the exporting country’s NPPO mutually determine that risk mitigation is achieved.

(C) Medfly traps with an approved lure must be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap per 10 hectares and a minimum of 10 traps. These traps must be checked at least every 7 days. At least one of these traps must be near the greenhouse. Traps must be set for at least 2 months before export and trapping must continue to the end of the harvest.

(D) Capture of 0.7 or more Medflies per trap per week will delay or suspend the harvest, depending on whether harvest has begun, for consignments of to-

matoes from that production site until APHIS and the exporting country’s NPPO can agree that the pest risk has been mitigated.

(E) The greenhouse must be inspected prior to harvest for pea leafminer, tomato fruit borer, and potato spindle tuber viroid. If any of these pests, or other quarantine pests, are found to be generally infesting the greenhouse, exports from that production site will be halted until the exporting country’s NPPO and APHIS determine that the pest risk has been mitigated.

(iv) The exporting country’s NPPO must maintain records of trap placement, checking of traps, and any Medfly captures in addition to production site and packinghouse inspection records. The exporting country’s NPPO must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for APHIS’s review.

(v) The tomatoes must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. The tomatoes must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. The tomatoes must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit into the United States. These safeguards must remain intact until arrival in the United States or the consignment will be denied entry into the United States.

(vi) During the time the packinghouse is in use for exporting tomatoes to the United States, the packinghouse may only accept tomatoes from registered approved production sites.

(vii) The exporting country’s NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, “These tomatoes were grown in an approved production site and the shipment has been inspected and found free of the pests listed in the requirements.” The shipping box must

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be labeled with the identity of the production site.

(Approved by the Office of Management and Budget under control numbers 0579–0049, 0579–0131, 0579–0280, and 0579–0286)

[63 FR 39216, July 22, 1998, as amended at 68 FR 37921, June 25, 2003; 70 FR 33326, June 7, 2005; 71 FR 50842, Aug. 28, 2006; 71 FR 75658, Dec. 18, 2006]

§ 319.56–2ee Administrative instructions: Conditions governing the entry of Ya variety pears from China.

Ya variety pears may be imported into the United States from China only under the following conditions:

(a) *Growing and harvest conditions.* (1) The pears must have been grown by growers registered with the Chinese Ministry of Agriculture in an APHIS-approved export growing area in the Hebei or Shandong Provinces.

(2) Field inspections for signs of pest infestation must be conducted by the Chinese Ministry of Agriculture during the growing season.

(3) The registered growers shall be responsible for following the phytosanitary measures agreed upon by APHIS and the Chinese Ministry of Agriculture, including applying pesticides to reduce the pest population and bagging the pears on the trees to reduce the opportunity for pests to attack the fruit during the growing season. The bags must remain on the pears through the harvest and during their movement to the packing house.

(4) The packing houses in which the pears are prepared for exportation shall not be used for any fruit other than Ya variety pears from registered growers during the pear export season. The packing houses shall accept only those pears that are in intact bags as required by paragraph (a)(3) of this section. The pears must be loaded into containers at the packing house and the containers then sealed before movement to the port of export.

(b) *Treatment.* Pears from Shandong Province must be cold treated for *Bactrocera dorsalis* in accordance with part 305 of this chapter.

(c) Each shipment of pears must be accompanied by a phytosanitary certificate issued by the Chinese Ministry

of Agriculture stating that the conditions of this section have been met.

[60 FR 50386, Sept. 29, 1995, as amended at 66 FR 45161, Aug. 28, 2001; 68 FR 34519, June 10, 2003; 70 FR 33326, June 7, 2005]

§ 319.56–2ff Administrative instructions governing movement of Hass avocados from Michoacan, Mexico.

Fresh Hass variety avocados (*Persea americana*) may be imported from Michoacan, Mexico, into the United States only under a permit issued in accordance with § 319.56–3, and only under the following conditions:

(a) *Shipping restrictions.* (1) The avocados may be imported in commercial shipments only;

(2) Between January 31, 2005, and January 31, 2007, the avocados may be imported into and distributed in all States except California, Florida, Hawaii, Puerto Rico, and U.S. Territories. After January 31, 2007, the avocados may be imported into and distributed in all States, but not Puerto Rico or any U.S. Territory.

(b) *Trust fund agreement.* The avocados may be imported only if the Mexican avocado industry association representing Mexican avocado growers, packers, and exporters has entered into a trust fund agreement with the Animal and Plant Health Inspection Service (APHIS) for that shipping season. That agreement requires the Mexican avocado industry association to pay in advance all estimated costs that APHIS expects to incur through its involvement in the trapping, survey, harvest, and packinghouse operations prescribed in paragraph (c) of this section. These costs will include administrative expenses incurred in conducting the services and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The agreement requires the Mexican avocado industry association to deposit a certified or cashier's check with APHIS for the amount of those costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the Mexican avocado industry association to deposit with

APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the services will be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the Mexican avocado industry association or held on account until needed.

(c) *Safeguards in Mexico.* The avocados must have been grown in the Mexican State of Michoacan in an orchard located in a municipality that meets the requirements of paragraph (c)(1) of this section. The orchard in which the avocados are grown must meet the requirements of paragraph (c)(2) of this section. The avocados must be packed for export to the United States in a packinghouse that meets the requirements of paragraph (c)(3) of this section. The Mexican national plant protection organization (NPPPO) must provide an annual work plan to APHIS that details the activities that the Mexican NPPPO will, subject to APHIS' approval of the work plan, carry out to meet the requirements of this section; APHIS will be directly involved with the Mexican NPPPO in the monitoring and supervision of those activities. The personnel conducting the trapping and pest surveys must be hired, trained, and supervised by the Mexican NPPPO or by the Michoacan State delegate of the Mexican NPPPO.

(1) *Municipality requirements.* (i) The municipality must be listed as an approved municipality in the bilateral work plan provided to APHIS by the Mexican NPPPO.

(ii) The municipality must be surveyed at least semiannually (once during the wet season and once during the dry season) and found to be free from the large avocado seed weevil *Heilipus lauri*, the avocado seed moth *Stenomacra catenifer*, and the small avocado seed weevils *Conotrachelus aguacatae* and *C. perseae*.

(iii) Trapping must be conducted in the municipality for Mediterranean fruit fly (Medfly) (*Ceratitis capitata*) at the rate of 1 trap per 1 to 4 square miles. Any findings of Medfly must be reported to APHIS.

(2) *Orchard and grower requirements.* The orchard and the grower must be registered with the Mexican NPPPO's

avocado export program and must be listed as an approved orchard or an approved grower in the annual work plan provided to APHIS by the Mexican NPPPO. The operations of the orchard must meet the following conditions:

(i) The orchard and all contiguous orchards and properties must be surveyed semiannually and found to be free from the avocado stem weevil *Copturus aguacatae*.

(ii) Trapping must be conducted in the orchard for the fruit flies *Anastrepha ludens*, *A. serpentina*, and *A. striata* at the rate of one trap per 10 hectares. If one of those fruit flies is trapped, at least 10 additional traps must be deployed in a 50-hectare area immediately surrounding the trap in which the fruit fly was found. If within 30 days of the first finding any additional fruit flies are trapped within the 260-hectare area surrounding the first finding, malathion bait treatments must be applied in the affected orchard in order for the orchard to remain eligible to export avocados.

(iii) Avocado fruit that has fallen from the trees must be removed from the orchard at least once every 7 days and may not be included in field boxes of fruit to be packed for export.

(iv) Dead branches on avocado trees in the orchard must be pruned and removed from the orchard.

(v) Harvested avocados must be placed in field boxes or containers of field boxes that are marked to show the official registration number of the orchard. The avocados must be moved from the orchard to the packinghouse within 3 hours of harvest or they must be protected from fruit fly infestation until moved.

(vi) The avocados must be protected from fruit fly infestation during their movement from the orchard to the packinghouse and must be accompanied by a field record indicating that the avocados originated from a certified orchard.

(3) *Packinghouse requirements.* The packinghouse must be registered with the Mexican NPPPO's avocado export program and must be listed as an approved packinghouse in the annual work plan provided to APHIS by the Mexican NPPPO. The operations of the

packinghouse must meet the following conditions:

(i) During the time the packinghouse is used to prepare avocados for export to the United States, the packinghouse may accept fruit only from orchards certified by the Mexican NPPO for participation in the avocado export program.

(ii) All openings to the outside must be covered by screening with openings of not more than 1.6 mm or by some other barrier that prevents insects from entering the packinghouse.

(iii) The packinghouse must have double doors at the entrance to the facility and at the interior entrance to the area where the avocados are packed.

(iv) Prior to the culling process, a biometric sample, at a rate determined by APHIS, of avocados per consignment must be selected, cut, and inspected by the Mexican NPPO and found free from pests.

(v) The identity of the avocados must be maintained from field boxes or containers to the shipping boxes so the avocados can be traced back to the orchard in which they were grown if pests are found at the packinghouse or the port of first arrival in the United States.

(vi) Prior to being packed in boxes, each avocado fruit must be cleaned of all stems, leaves, and other portions of plants and labeled with a sticker that bears the official registration number of the packinghouse.

(vii) The avocados must be packed in clean, new boxes, or clean plastic reusable crates. The boxes or crates must be clearly marked with the identity of the grower, packinghouse, and exporter. Between January 31, 2005, and January 31, 2007, the boxes or crates must be clearly marked with the statement “Not for importation or distribution in CA, FL, HI, Puerto Rico, or U.S. Territories.” After January 31, 2007, the boxes or crates must be clearly marked with the statement “Not for importation or distribution in Puerto Rico or U.S. Territories.”

(viii) The boxes must be placed in a refrigerated truck or refrigerated container and remain in that truck or container while in transit through Mexico to the port of first arrival in the

United States. Prior to leaving the packinghouse, the truck or container must be secured by Sanidad Vegetal with a seal that will be broken when the truck or container is opened. Once sealed, the refrigerated truck or refrigerated container must remain unopened until it reaches the port of first arrival in the United States.

(ix) Any avocados that have not been packed or loaded into a refrigerated truck or refrigerated container by the end of the work day must be kept in the screened packing area.

(d) *Certification.* All consignments of avocados must be accompanied by a phytosanitary certificate issued by the Mexican NPPO with an additional declaration certifying that the conditions specified in this section have been met.

(e) *Pest detection.* (1) If any of the avocado seed pests *Heilipus lauri*, *Conotrachelus aguacatae*, *C. perseae*, or *Stenoma catenifer* are discovered in a municipality during the semiannual pest surveys, orchard surveys, packinghouse inspections, or other monitoring or inspection activity in the municipality, the Mexican NPPO must immediately initiate an investigation and take measures to isolate and eradicate the pests. The Mexican NPPO must also provide APHIS with information regarding the circumstances of the infestation and the pest risk mitigation measures taken. The municipality in which the pests are discovered will lose its pest-free certification and avocado exports from that municipality will be suspended until APHIS and the Mexican NPPO agree that the pest eradication measures taken have been effective and that the pest risk within that municipality has been eliminated.

(2) If the Mexican NPPO discovers the stem weevil *Copturus aguacatae* in an orchard during an orchard survey or other monitoring or inspection activity in the orchard, the Mexican NPPO must provide APHIS with information regarding the circumstances of the infestation and the pest risk mitigation measures taken. The orchard in which the pest was found will lose its export certification immediately and avocado exports from that orchard will be suspended until APHIS and the Mexican NPPO agree that the pest eradication measures taken have been effective and

that the pest risk within that orchard has been eliminated.

(3) If the Mexican NPPO discovers the stem weevil *Copturus aguacatae* in fruit at a packinghouse, the Mexican NPPO must investigate the origin of the infested fruit and provide APHIS with information regarding the circumstances of the infestation and the pest risk mitigation measures taken. The orchard where the infested fruit originated will lose its export certification immediately and avocado exports from that orchard will be suspended until APHIS and the Mexican NPPO agree that the pest eradication measures taken have been effective and that the pest risk within that orchard has been eliminated.

(f) *Ports.* The avocados may enter the United States only through a port of entry located in a State where the distribution of the fruit is authorized pursuant to paragraph (a)(2) of this section.

(g) *Inspection.* The avocados are subject to inspection by an inspector at the port of first arrival. At the port of first arrival, an inspector will sample and cut avocados from each consignment to detect pest infestation.

(h) *Repackaging.* If any avocados are removed from their original shipping boxes and repackaged, the stickers required by paragraph (c)(3)(vi) of this section may not be removed or obscured and the new boxes must be clearly marked with all the information required by paragraph (c)(3)(vii) of this section.

[62 FR 5313, Feb. 5, 1997, as amended at 64 FR 68005, Dec. 6, 1999; 66 FR 55551, Nov. 1, 2001; 68 FR 37922, June 25, 2003; 69 FR 69773, Nov. 30, 2004; 70 FR 6999, Feb. 10, 2005; 71 FR 61374, Oct. 18, 2006]

§ 319.56–2gg Administrative instructions; conditions governing the entry of peppers from Spain.

Peppers (fruit) (*Capsicum* spp.) may be imported into the United States from Spain only under permit, and only in accordance with this section and all other applicable requirements of this subpart:

(a) The peppers must be grown in the Alicante or Almeria Province of Spain in pest-proof greenhouses registered with, and inspected by, the Spanish

Ministry of Agriculture, Fisheries, and Food (MAFF);

(b) The peppers may be shipped only from December 1 through April 30, inclusive;

(c) Beginning October 1, and continuing through April 30, MAFF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In all outside areas, including urban and residential areas, within 8 kilometers of the greenhouses, MAFF must set and maintain Medfly traps baited with trimedlure at a rate of four traps per square kilometer. All traps must be checked every 7 days;

(d) Capture of a single Medfly in a registered greenhouse will immediately halt exports from that greenhouse until the Administrator determines that the source of infestation has been identified, that all Medflies have been eradicated, and that measures have been taken to preclude any future infestation. Capture of a single Medfly within 2 kilometers of a registered greenhouse will necessitate increased trap density in order to determine whether there is a reproducing population in the area. Capture of two Medflies within 2 kilometers of a registered greenhouse during a 1-month period will halt exports from all registered greenhouses within 2 kilometers of the capture, until the source of infestation is determined and all Medflies are eradicated;

(e) The peppers must be safeguarded from harvest to export by insect-proof mesh or plastic tarpaulin, including while in transit to the packing house and while awaiting packing. They must be packed in insect-proof cartons or covered by insect-proof mesh or plastic tarpaulin for transit to the airport and subsequent export to the United States. These safeguards must be intact upon arrival in the United States;

(f) The peppers must be packed for shipment within 24 hours of harvest;

(g) During shipment, the peppers may not transit other fruit fly-supporting areas unless shipping containers are sealed by MAFF with an official seal whose number is noted on the phytosanitary certificate; and

(h) A phytosanitary certificate issued by MAFF and bearing the declaration, “These peppers were grown in registered greenhouses in Alicante or Almeria Province in Spain,” must accompany the shipment.

(Approved by the Office of Management and Budget under control number 0579–0210)

[63 FR 65656, Nov. 30, 1998, as amended at 68 FR 37922, June 25, 2003; 70 FR 72892, Dec. 8, 2005]

§ 319.56–2hh Conditions governing the entry of peppers from New Zealand.

Peppers from New Zealand may be imported into the United States only under the following conditions:

(a) The peppers must be grown in New Zealand in insect-proof greenhouses approved by the New Zealand Ministry of Agriculture and Forestry (MAF).

(b) The greenhouses must be equipped with double self-closing doors, and any vents or openings in the greenhouses (other than the double closing doors) must be covered with 0.6 mm screening in order to prevent the entry of pests into the greenhouse.

(c) The greenhouses must be examined periodically by MAF to ensure that the screens are intact.

(d) Each shipment of peppers must be accompanied by a phytosanitary certificate of inspection issued by MAF bearing the following declaration: “These peppers were grown in greenhouses in accordance with the conditions in § 319.56–2hh.”

[66 FR 45161, Aug. 28, 2001]

§ 319.56–2ii Administrative instructions: conditions governing the entry of mangoes from the Philippines.

Mangoes (fruit) (*Mangifera indica*) may be imported into the United States from the Philippines only under the following conditions:

(a) Mangoes grown on the island of Guimaras, which the Administrator has determined meet the criteria set forth in § 319.56–2(e)(4) and § 319.56–2(f) with regard to the mango seed weevil (*Sternonchus mangiferae*), are eligible for importation into all areas of the United States. Mangoes from all other areas of the Philippines except Palawan are eligible for importation

into Hawaii and Guam only. Mangoes from Palawan are not eligible for importation into the United States.

(b) *Treatment.* The mangoes must be subjected to the following vapor heat treatment for fruit flies of the genus *Bactrocera*. The treatment must be conducted in the Philippines under the supervision of an inspector.

(1) Size the fruit before treatment. Place temperature probes in the center of the large fruits.

(2) Raise the temperature of the fruit by saturated water vapor at 117.5 °F (47.5 °C) until the approximate center of the fruit reaches 114.8 °F (46 °C) within a minimum of 4 hours.

(3) Hold fruit temperature at 114.8 °F (46 °C) for 10 minutes.

(4) During the run-up time, temperature should be recorded from each pulp sensor once every 5 minutes. During the 10 minutes holding time, temperature should be recorded from each pulp sensor every minute. During the last hour of the treatment, which includes the 10-minute holding time, the relative humidity must be maintained at a level of 90 percent or higher. After the fruit are treated, air cooling and/or drench cooling are optional.

(c) *APHIS inspection.* Mangoes from the Philippines are subject to inspection under the direction of an inspector, either in the Philippines or at the port of first arrival in the United States. Mangoes inspected in the Philippines are subject to reinspection at the port of first arrival in the United States as provided in § 319.56–6.

(d) *Labeling.* Each box of mangoes must be clearly labeled in accordance with § 319.56–2(g). Shipments originating from approved areas other than Guimaras must be labeled “For distribution in Guam and Hawaii only.”

(e) *Phytosanitary certificate.* Mangoes originating from all approved areas must be accompanied by a phytosanitary certificate issued by the Republic of the Philippines Department of Agriculture that contains an additional declaration stating that the mangoes have been treated for fruit flies of the genus *Bactrocera* in accordance with paragraph (b) of this section. Phytosanitary certificates accompanying shipments of mangoes originating from the island of Guimaras

must also contain an additional declaration stating that the mangoes were grown on the island of Guimaras.

(f) *Trust Fund Agreement.* Mangoes that are treated or inspected in the Philippines may be imported into the United States only if the Republic of the Philippines Department of Agriculture (RPDA) has entered into a trust fund agreement with APHIS. That agreement requires the RPDA to pay, in advance of each shipping season, all costs that APHIS estimates it will incur in providing inspection services in the Philippines during that shipping season. Those costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS in performing these services. The agreement requires the RPDA to deposit a certified or cashier's check with APHIS for the amount of those costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the RPDA to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before any more mangoes will be treated or inspected in the Philippines. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the RPDA or held on account until needed, at the RPDA's option.

(g) *Department not responsible for damage.* The treatment for mangoes prescribed in paragraph (b) of this section is judged from experimental tests to be safe. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment.

(Approved by the Office of Management and Budget under control numbers 0579-0172 and 0579-0280)

[66 FR 32213, June 14, 2001, as amended at 71 FR 75659, Dec. 18, 2006]

§ 319.56-2jj Administrative instructions; conditions governing the importation of clementines from Spain.

Clementines (*Citrus reticulata*) from Spain may only be imported into the

United States in accordance with the regulations in this section.

(a) *Trust fund agreement.* Clementines from Spain may be imported only if the Government of Spain or its designated representative enters into a trust fund agreement with the Animal and Plant Health Inspection Service (APHIS) before each shipping season. The Government of Spain or its designated representative is required to pay in advance all estimated costs that APHIS expects to incur through its involvement in overseeing the execution of paragraphs (b) through (g) of this section. These costs will include administrative expenses incurred in conducting the services enumerated in paragraphs (b) through (g) of this section and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The Government of Spain or its designated representative is required to deposit a certified or cashier's check with APHIS for the amount of the costs estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the Government of Spain or its designated representative to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the services will be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the Government of Spain or its designated representative or held on account until needed.

(b) *Grower registration and agreement.* Persons who produce clementines in Spain for export to the United States must:

- (1) Be registered with the Government of Spain; and
- (2) Enter into an agreement with the Government of Spain whereby the producer agrees to participate in and follow the Mediterranean fruit fly management program established by the Government of Spain.

(c) *Management program for Mediterranean fruit fly; monitoring.* The Government of Spain's Mediterranean fruit fly

management program must be approved by APHIS, and must contain the fruit fly trapping and record-keeping requirements specified in this paragraph. The program must also provide that clementine producers must allow APHIS inspectors access to clementine production areas in order to monitor compliance with the Mediterranean fruit fly management program.

(1) *Trapping and control.* In areas where clementines are produced for export to the United States, traps must be placed in Mediterranean fruit fly host plants at least 6 weeks prior to harvest. Bait treatments using malathion, spinosad, or another pesticide that is approved by APHIS and the Government of Spain must be applied in the production areas at the rate specified by Spain's Medfly management program.

(2) *Records.* The Government of Spain or its designated representative must keep records that document the fruit fly trapping and control activities in areas that produce clementines for export to the United States. All trapping and control records kept by the Government of Spain or its designated representative must be made available to APHIS upon request.

(3) *Compliance.* If APHIS determines that an orchard is not operating in compliance with the regulations in this section, it may suspend exports of clementines from that orchard.

(d) *Phytosanitary certificate.* Clementines from Spain must be accompanied by a phytosanitary certificate stating that the fruit meets the conditions of the Government of Spain's Mediterranean fruit fly management program and applicable APHIS regulations.

(e) *Labeling.* Boxes in which clementines are packed must be labeled with a lot number that provides information to identify the orchard where the fruit was grown and the packinghouse where the fruit was packed. The lot number must end with the letters "US." For the 2002-2003 shipping season, boxes must also be labeled with the following statement "Not for distribution in AZ, CA, FL, LA, TX, Puerto Rico, and any other U.S. Territories." All labeling must be

large enough to clearly display the required information and must be located on the outside of the boxes to facilitate inspection.

(f) *Pre-treatment sampling; rates of inspection.* For each shipment of clementines intended for export to the United States, prior to cold treatment, APHIS inspectors will cut and inspect 200 fruit that are randomly selected from throughout the shipment. If inspectors find a single live Mediterranean fruit fly in any stage of development during an inspection, the entire shipment of clementines will be rejected. If a live Mediterranean fruit fly in any stage of development is found in any two lots of fruit from the same orchard during the same shipping season, that orchard will be removed from the export program for the remainder of that shipping season.

(g) *Cold treatment.* Clementines must be cold treated in accordance with part 305 of this chapter. Upon arrival of clementines at a port of entry into the United States, APHIS inspectors will examine the cold treatment data for each shipment to ensure that the cold treatment was successfully completed. If the cold treatment has not been successfully completed, the shipment will be held until appropriate remedial actions have been implemented.

(h) *Port of entry sampling.* Clementines imported from Spain are subject to inspection by an inspector at the port of entry into the United States. At the port of first arrival, an inspector will sample and cut clementines from each shipment to detect pest infestation according to sampling rates determined by the Administrator. If a single live Mediterranean fruit fly in any stage of development is found, the shipment will be held until an investigation is completed and appropriate remedial actions have been implemented.

(i) *Limited distribution.* For the 2002-2003 shipping season, clementines from Spain may not be imported into, or distributed within, the following U.S. States and Territories: Arizona, California, Florida, Louisiana, Texas, Puerto Rico, the U.S. Virgin Islands, the Northern Mariana Islands, Guam, or American Samoa.

(j) *Suspension of program.* If APHIS determines at any time that the safeguards contained in this section are not protecting against the introduction of Medflies into the United States, APHIS may suspend the importation of clementines and conduct an investigation into the cause of the deficiency.

(k) *Definitions.*

Lot. A number of units of clementines that are from a common origin (i.e., a single producer or a homogenous production unit¹²).

Orchard. A plot on which clementines are grown that is separately registered in the Spanish Medfly management program.

Shipment. (1) *Untreated fruit.* For untreated fruit, the term means one or more lots (containing no more than a combined total of 200,000 boxes of clementines) that are presented to an APHIS inspector for pre-treatment inspection.

(2) *Treated fruit.* For treated fruit, the term means one or more lots of clementines that are imported into the United States on the same conveyance.

Shipping season. For the purposes of this section, a shipping season is considered to include the period beginning approximately in mid-September and ending approximately in late February of the next calendar year.

(Approved by the Office of Management and Budget under control number 0579-0203)

[67 FR 64738, Oct. 21, 2002, as amended at 68 FR 37922, June 25, 2003; 70 FR 33326, June 7, 2005]

§ 319.56-2kk Persimmons from the Republic of Korea.

Persimmons (fruit) (*Disopyros khaki*) may be imported into the United States from the Republic of Korea only under the following conditions:

(a) The production site, which is an orchard, where the persimmons are grown must have been inspected at least once during the growing season and before harvest for the following pests: *Conogethes punctiferalis*, *Planococcus kraunhiae*, *Stathmopoda*

¹²A homogeneous production unit is a group of adjacent orchards in Spain that are owned by one or more growers who follow a homogenous production system under the same technical guidance.

masinissa, and *Tenuipalpus zhizhilashiviliae*;

(b) After harvest, the persimmons must be inspected by the Republic of Korea's national plant protection organization (NPPO) and found free of the pests listed in paragraph (a) of this section before the persimmons may be shipped to the United States;

(c) Each shipment of persimmons must be accompanied by a phytosanitary certificate issued by the Republic of Korea's NPPO stating that the fruit is free of *Conogethes punctiferalis*, *Planococcus kraunhiae*, *Stathmopoda masinissa*, and *Tenuipalpus zhizhilashiviliae*.

(d) If any of the pests listed in paragraph (a) of this section are detected in an orchard, exports from that orchard will be canceled until the source of infestation is determined and the infestation is eradicated.

(Approved by the Office of Management and Budget under control number 0579-0210)

[68 FR 37922, June 25, 2003]

§ 319.56-2ll Conditions governing the entry of grapes from the Republic of Korea.

Grapes (*Vitis* spp.) may be imported into the United States from the Republic of Korea under the following conditions:

(a) The fields where the grapes are grown must be inspected during the growing season by the Republic of Korea's national plant protection organization (NPPO). The NPPO will inspect 250 grapevines per hectare, inspecting leaves, stems, and fruit of the vines.

(b) If evidence of *Conogethes punctiferalis*, *Eupoecilia ambiguella*, *Sparganothis pilleriana*, *Stathmopoda auriferella*, or *Monilinia fructigena* is detected during inspection, the field will immediately be rejected, and exports from that field will be canceled until visual inspection of the vines shows that the infestation has been eradicated.

(c) Fruit must be bagged from the time the fruit sets until harvest.

(d) Each shipment must be inspected by the NPPO before export. For each shipment, the NPPO must issue a phytosanitary certificate with an additional declaration stating that the fruit in the shipment was found free

from *C. punctiferalis*, *E. ambiguella*, *S. pilleriana*, *S. auriferella*, or *M. fructigena*, and *Nippoptilia vitis*.

(Approved by the Office of Management and Budget under control number 0579–0236)

[69 FR 65065, Nov. 10, 2004]

§ 319.56–2mm Conditions governing the importation of clementines, mandarins, and tangerines from Chile.

Clementines (*Citrus reticulata* Blanco var. Clementine), mandarins (*Citrus reticulata* Blanco), and tangerines (*Citrus reticulata* Blanco) may be imported into the United States from Chile only under the following conditions:

(a) The fruit must be accompanied by a specific written permit issued in accordance with § 319.56–3.

(b) If the fruit is produced in an area of Chile where Mediterranean fruit fly (*Ceratatis capitata*) is known to occur, the fruit must be cold treated in accordance with part 305 of this chapter. Fruit for which cold treatment is required must be accompanied by documentation indicating that the cold treatment was initiated in Chile (a PPQ Form 203 or its equivalent may be used for this purpose).

(c) The fruit must either be produced and shipped under the systems approach described in paragraph (d) of this section or fumigated in accordance with paragraph (e) of this section.

(d) *Systems approach.* The fruit may be imported without fumigation for *Brevipalpus chilensis* if it meets the following conditions:

(1) *Production site registration.* The production site where the fruit is grown must be registered with the national plant protection organization (NPPO) of Chile. To register, the production site must provide Chile's NPPO with the following information: Production site name, grower, municipality, province, region, area planted to each species, number of plants/hectares/species, and approximate date of harvest. Registration must be renewed annually.

(2) *Low prevalence production site certification.* Between 1 and 30 days prior to harvest, random samples of fruit must be collected from each registered production site under the direction of

Chile's NPPO. These samples must undergo a pest detection and evaluation method as follows: The fruit and pedicels must be washed using a flushing method, placed in a 20 mesh sieve on top of a 200 mesh sieve, sprinkled with a liquid soap and water solution, washed with water at high pressure, and washed with water at low pressure. The process must then be repeated. The contents of the sieves must then be placed on a petri dish and analyzed for the presence of live *B. chilensis* mites. If a single live *B. chilensis* mite is found, the production site will not qualify for certification as a low prevalence production site and will be eligible to export fruit to the United States only if the fruit is fumigated in accordance with paragraph (e) of this section. Each production site may have only one opportunity per harvest season to qualify as a low prevalence production site, and certification of low prevalence will be valid for one harvest season only. The NPPO of Chile will present a list of certified production sites to APHIS.

(3) *Post-harvest processing.* After harvest and before packing, the fruit must be washed, rinsed in a chlorine bath, washed with detergent with brushing using bristle rollers, rinsed with a hot water shower with brushing using bristle rollers, predried at room temperature, waxed, and dried with hot air.

(4) *Phytosanitary inspection.* The fruit must be inspected in Chile at an APHIS-approved inspection site under the direction of APHIS inspectors in coordination with the NPPO of Chile after the post-harvest processing. A biometric sample will be drawn and examined from each consignment of fruit, which may represent multiple grower lots from different packing sheds. Clementines, mandarins, or tangerines in any consignment may be shipped to the United States only if the consignment passes inspection as follows:

(i) Fruit presented for inspection must be identified in the shipping documents accompanying each lot of fruit that identify the production site(s) where the fruit was produced and the packing shed(s) where the fruit was

processed. This identity must be maintained until the fruit is released for entry into the United States.

(ii) A biometric sample of boxes from each consignment will be selected and the fruit from these boxes will be visually inspected for quarantine pests, and a portion of the fruit will be washed and the collected filtrate will be microscopically examined for *B. chilensis*.

(A) If a single live *B. chilensis* mite is found, the fruit will be eligible for importation into the United States only if it is fumigated in Chile in accordance with paragraph (e) of this section. The production site will be suspended from the low prevalence certification program and all subsequent lots of fruit from the production site of origin will be required to be fumigated as a condition of entry to the United States for the remainder of the shipping season.

(B) If inspectors find evidence of any other quarantine pest, the fruit in the consignment will remain eligible for importation into the United States only if an authorized treatment for the pest is available in part 305 of this chapter and the entire consignment is treated for the pest in Chile under APHIS supervision.

(iii) Each consignment of fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Chile that contains an additional declaration stating that the fruit in the consignment meets the conditions of § 319.56–2mm(d).

(e) *Approved fumigation.* Clementines, mandarins, or tangerines that do not meet the conditions of paragraph (d) of this section may be imported into the United States if the fruit is fumigated either in Chile or at the port of first arrival in the United States with methyl bromide for *B. chilensis* in accordance with part 305 of this chapter. An APHIS inspector will monitor the fumigation of the fruit and will prescribe such safeguards as may be necessary for unloading, handling, and transportation preparatory to fumigation. The final release of the fruit for entry into the United States will be conditioned upon compliance with prescribed safeguards and required treatment.

(f) *Trust fund agreement.* Clementines, mandarins, and tangerines may be imported into the United States under this section only if the NPPO of Chile has entered into a trust fund agreement with APHIS. This agreement requires the NPPO of Chile to pay in advance of each shipping season all costs that APHIS estimates it will incur in providing inspection and treatment monitoring services in Chile during that shipping season. These costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS in performing these services. The agreement requires the NPPO of Chile to deposit a certified or cashier's check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the NPPO of Chile to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before APHIS will provide any more services related to the inspection and treatment of clementines, mandarins, and tangerines in Chile. After a final audit at the conclusions of each shipping season, any overpayment of funds would be returned to the NPPO of Chile, or held on account until needed, at their option.

(Approved by the Office of Management and Budget under control number 0579–0242)

[69 FR 71696, Dec. 10, 2004, as amended at 70 FR 33326, June 7, 2005]

§ 319.56–2nn Administrative instructions: Conditions governing the entry of fragrant pears from China.

Fragrant pears may be imported into the United States from China only under the following conditions:

(a) *Origin, growing, and harvest conditions.* (1) The pears must have been grown in the Korla region of Xinjiang Province in a production site that is registered with the national plant protection organization of China.

(2) All propagative material introduced into a registered production site

must be certified free of the pests listed in this section by the national plant protection organization of China.

(3) Within 30 days prior to harvest, the national plant protection organization of China or officials authorized by the national plant protection organization of China must inspect the registered production site for signs of pest infestation and allow APHIS to monitor the inspections. The national plant protection organization of China must provide APHIS with information on pest detections and pest detection practices, and APHIS must approve the pest detection practices.

(4) If any of the quarantine pests listed in this section are found during the pre-harvest inspection or at any other time, the national plant protection organization of China must notify APHIS immediately.

(i) Upon detection of Oriental fruit fly (*Bactrocera dorsalis*), APHIS may reject the lot or consignment and may prohibit the importation into the United States of fragrant pears from China until an investigation is conducted and APHIS and the national plant protection organization of China agree that appropriate remedial action has been taken.

(ii) Upon detection of peach fruit borer (*Carpocapsa sasakii*), yellow peach moth (*Conogethes punctiferalis*), apple fruit moth (*Cydia inopinata*), Hawthorn spider mite (*Tetranychus viennensis*), red plum maggot (*Cydia funebrana*), brown rot (*Monilinia fructigena*), Asian pear scab (*Venturia nashicola*), pear trellis rust (*Gymnosporangium fuscum*), Asian pear black spot (*Alternaria spp.*), or phylloxera (*Aphanostigma sp. poss. jackusiensis*), APHIS may reject the lot or consignment and may prohibit the importation into the United States of fragrant pears from the production site for the season. The exportation to the United States of fragrant pears from the production site may resume in the next growing season if an investigation is conducted and APHIS and the national plant protection organization of China agree that appropriate remedial action has been taken. If any of these pests is detected in more than one registered production site, APHIS may prohibit the importation into the United States of fragrant pears from

China until an investigation is conducted and APHIS and the national plant protection organization of China agree that appropriate remedial action has been taken.

(5) After harvest, the national plant protection organization of China or officials authorized by the national plant protection organization of China must inspect the pears for signs of pest infestation and allow APHIS to monitor the inspections.

(6) Upon detection of large pear borer (*Numonia piovorella*), pear curculio (*Rhynchites foveipessin*), or Japanese apple curculio (*R. heros*), APHIS may reject the lot or consignment.

(b) *Packing requirements.* (1) The fragrant pears must be packed in cartons that are labeled in accordance with § 319.56-2(g).

(2) The fragrant pears must be held in a cold storage facility while awaiting export. If fruit from unregistered production sites are stored in the same facility, the fragrant pears must be isolated from that other fruit.

(c) *Shipping requirements.* (1) The fragrant pears must be shipped in insect-proof containers and all pears must be safeguarded during transport to the United States in a manner that will prevent pest infestation.

(2) The fragrant pears may be imported only under a permit issued by APHIS in accordance with § 319.56-4.

(3) Each shipment of pears must be accompanied by a phytosanitary certificate issued by the national plant protection organization of China stating that the conditions of this section have been met and that the shipment has been inspected and found free of the pests listed in this section.

(Approved by the Office of Management and Budget under control number 0579-0227)

[70 FR 76139, Dec. 23, 2005]

§ 319.56-200 Administrative instructions: Conditions governing the entry of peppers from certain Central American countries.

Fresh peppers (*Capsicum spp.*) may be imported into the United States from Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua only under the following conditions:

(a) For peppers of the species *Capsicum annuum*, *Capsicum frutescens*, *Capsicum baccatum*, and *Capsicum chinense* from areas free of Mediterranean fruit fly (Medfly), terms of entry are as follows:

(1) The peppers must be grown and packed in an area that has been determined by APHIS to be free of Mediterranean fruit fly (Medfly) in accordance with the procedures described in § 319.56-2(f) of this subpart.

(2) A pre-harvest inspection of the growing site must be conducted by the national plant protection organization (NPPO) of the exporting country for the weevil *Faustinus ovatipennis*, pea leafminer, tomato fruit borer, banana moth, lantana mealybug, passionvine mealybug, melon thrips, the rust fungus *Puccinia pampeana*, Andean potato mottle virus, and tomato yellow mosaic virus, and if these pests are found to be generally infesting the growing site, the NPPO may not allow export from that production site until the NPPO has determined that risk mitigation has been achieved.

(3) The peppers must be packed in insect-proof cartons or containers or covered with insect-proof mesh or plastic tarpaulin at the packinghouse for transit to the United States. These safeguards must remain intact until arrival in the United States.

(4) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each shipment of peppers must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These peppers were grown in an area recognized to be free of Medfly and the shipment has been inspected and found free of the pests listed in the requirements."

(b) For peppers of the species *Capsicum annuum*, *Capsicum frutescens*, *Capsicum baccatum*, *Capsicum chinense*, and *Capsicum pubescens* from areas in which Medfly is considered to exist:

(1) The peppers must be grown in approved production sites registered with the NPPO of the exporting country. Initial approval of the production sites will be completed jointly by the exporting country's NPPO and APHIS. The exporting country's NPPO will

visit and inspect the production sites monthly, starting 2 months before harvest and continuing through until the end of the shipping season. APHIS may monitor the production sites at any time during this period.

(2) Pepper production sites must consist of pest-exclusionary greenhouses, which must have self-closing double doors and have all other openings and vents covered with 1.6 (or less) mm screening.

(3) Registered sites must contain traps for the detection of Medfly both within and around the production site.

(i) Traps with an approved protein bait must be placed inside the greenhouses at a density of four traps per hectare, with a minimum of two traps per greenhouse. Traps must be serviced on a weekly basis.

(ii) If a single Medfly is detected inside a registered production site or in a consignment, the registered production site will lose its ability to export peppers to the United States until APHIS and the exporting country's NPPO mutually determine that risk mitigation is achieved.

(iii) Medfly traps with an approved lure must be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap per 10 hectares and a minimum of 10 traps. These traps must be checked at least every 7 days. At least one of these traps must be near the greenhouse. Traps must be set for at least 2 months before export and trapping must continue to the end of the harvest.

(iv) Capture of 0.7 or more Medflies per trap per week will delay or suspend the harvest, depending on whether harvest has begun, for consignments of peppers from that production site until APHIS and the exporting country's NPPO can agree that the pest risk has been mitigated.

(v) The greenhouse must be inspected prior to harvest for the weevil *Faustinus ovatipennis*, pea leafminer, tomato fruit borer, banana moth, lantana mealybug, passionvine mealybug, melon thrips, the rust fungus *Puccinia pampeana*, Andean potato mottle virus, and tomato yellow mosaic virus. If any of these pests, or other quarantine pests, are found to be

generally infesting the greenhouse, export from that production site will be halted until the exporting country's NPPO determines that the pest risk has been mitigated.

(4) The exporting country's NPPO must maintain records of trap placement, checking of traps, and any Medfly captures. The exporting country's NPPO must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for APHIS' review.

(5) The peppers must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. The peppers must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. Peppers must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit to the United States. These safeguards must remain intact until arrival in the United States or the consignment will be denied entry into the United States.

(6) During the time the packinghouse is in use for exporting peppers to the United States, the packinghouse may accept peppers only from registered approved production sites.

(7) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each shipment of peppers must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These peppers were grown in an approved production site and the shipment has been inspected and found free of the pests listed in the requirements." The shipping box must be labeled with the identity of the production site.

(c) For peppers of the species *Capiscum pubescens* from areas in which Mexican fruit fly (Mexfly) is considered to exist:

(1) The peppers must be grown in approved production sites registered with the NPPO of the exporting country. Initial approval of the production sites will be completed jointly by the exporting country's NPPO and APHIS. The exporting country's NPPO must

visit and inspect the production sites monthly, starting 2 months before harvest and continuing through until the end of the shipping season. APHIS may monitor the production sites at any time during this period.

(2) Pepper production sites must consist of pest-exclusionary greenhouses, which must have self-closing double doors and have all other openings and vents covered with 1.6 (or less) mm screening.

(3) Registered sites must contain traps for the detection of Mexfly both within and around the production site.

(i) Traps with an approved protein bait must be placed inside the greenhouses at a density of four traps per hectare, with a minimum of two traps per greenhouse. Traps must be serviced on a weekly basis.

(ii) If a single Mexfly is detected inside a registered production site or in a consignment, the registered production site will lose its ability to ship under the systems approach until APHIS and the exporting country's NPPO mutually determine that risk mitigation is achieved.

(iii) Mexfly traps with an approved protein bait must be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap per 10 hectares and a minimum of 10 traps. These traps must be checked at least every 7 days. At least one of these traps must be near the greenhouse. Traps must be set for at least 2 months before export, and trapping must continue to the end of the harvest.

(iv) Capture of 0.7 or more Mexflies per trap per week will delay or suspend the harvest, depending on whether harvest has begun, for consignments of peppers from that production site until APHIS and the exporting country's NPPO can agree that the pest risk has been mitigated.

(v) The greenhouse must be inspected prior to harvest for the weevil *Faustinus ovatipennis*, pea leafminer, tomato fruit borer, banana moth, lantana mealybug, passionvine mealybug, melon thrips, the rust fungus *Puccinia pampeana*, Andean potato mottle virus, and tomato yellow mosaic virus. If any of these pests, or other quarantine pests, are found to be

generally infesting the greenhouse, export from that production site will be halted until the exporting country's NPPO determines that the pest risk has been mitigated.

(4) The exporting country's NPPO must maintain records of trap placement, checking of traps, and any Mexfly captures. The exporting country's NPPO must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for APHIS's review.

(5) The peppers must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. The peppers must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. Peppers must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit to the United States. These safeguards must remain intact until arrival in the United States or the consignment will be denied entry into the United States.

(6) During the time the packinghouse is in use for exporting peppers to the United States, the packinghouse may accept peppers only from registered approved production sites.

(7) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each shipment of peppers must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These peppers were grown in an approved production site and the shipment has been inspected and found free of the pests listed in the requirements." The shipping box must be labeled with the identity of the production site.

(Approved by the Office of Management and Budget under control number 0579-0274)

[71 FR 11292, Mar. 7, 2006]

§ 319.56-2pp Conditions governing the importation of citrus from Peru.

Grapefruit (*Citrus paradisi*), limes (*C. aurantiifolia*), mandarins or tangerines (*C. reticulata*), sweet oranges (*C. sinensis*), and tangelos (*Citrus tangelo*) may be imported into the United

States from Peru under the following conditions:

(a) The fruit must be accompanied by a specific written permit issued in accordance with § 319.56-3.

(b) The fruit may be imported in commercial shipments only.

(c) *Approved growing areas.* The fruit must be grown in one of the following approved citrus-producing zones: Zone I, Piura; Zone II, Lambayeque; Zone III, Lima; Zone IV, Ica; and Zone V, Junin.

(d) *Grower registration and agreement.* The production site where the fruit is grown must be registered for export with the national plant protection organization (NPPO) of Peru, and the producer must have signed an agreement with the NPPO of Peru whereby the producer agrees to participate in and follow the fruit fly management program established by the NPPO of Peru.

(e) *Management program for fruit flies; monitoring.* The NPPO of Peru's fruit fly management program must be approved by APHIS, and must require that participating citrus producers allow APHIS inspectors access to production areas in order to monitor compliance with the fruit fly management program. The fruit fly management program must also provide for the following:

(1) *Trapping and control.* In areas where citrus is produced for export to the United States, traps must be placed in fruit fly host plants at least 6 weeks prior to harvest at a rate mutually agreed upon by APHIS and the NPPO of Peru. If fruit fly trapping levels at a production site exceed the thresholds established by APHIS and the NPPO of Peru, exports from that production site will be suspended until APHIS and the NPPO of Peru conclude that fruit fly population levels have been reduced to an acceptable limit. Fruit fly traps are monitored weekly; therefore, reinstatements of production sites will be evaluated on a weekly basis.

(2) *Records.* The NPPO of Peru or its designated representative must keep records that document the fruit fly trapping and control activities in areas that produce citrus for export to the United States. All trapping and control records kept by the NPPO of Peru or

its designated representative must be made available to APHIS upon request.

(f) *Cold treatment.* The fruit, except for limes (*C. aurantiifolia*), must be cold treated for *Anastrepha fraterculus*, *A. obliqua*, *A. serpentina*, and *Ceratitis capitata* (Mediterranean fruit fly) in accordance with part 305 of this chapter.

(g) *Phytosanitary inspection.* Each consignment of fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Peru stating that the fruit has been inspected and found free of *Ecdytolopha aurantiana*.

(h) *Port of first arrival sampling.* Citrus fruits imported from Peru are subject to inspection by an inspector at the port of first arrival into the United States in accordance with § 319.56–2d(b)(8). At the port of first arrival, an inspector will sample and cut citrus fruits from each shipment to detect pest infestation. If a single live fruit fly in any stage of development or a single *E. aurantiana* is found, the shipment will be held until an investigation is completed and appropriate remedial actions have been implemented.

(Approved by the Office of Management and Budget under control number 0579–0289)

[71 FR 25494, May 1, 2006]

§ 319.56–2qq Administrative instructions; conditions governing the entry of peppers from the Republic of Korea.

Peppers (*Capsicum annuum* L. var. *annuum*) from the Republic of Korea may be imported into the continental United States only under the following conditions:

(a) The peppers must be grown in the Republic of Korea in insect-proof greenhouses approved by and registered with the National Plant Quarantine Service (NPQS).

(b) The greenhouses must be equipped with double self-closing doors, and any vents or openings in the greenhouses (other than the double self-closing doors) must be covered with 0.6 mm screening in order to prevent the entry of pests into the greenhouse.

(c) The greenhouses must be inspected monthly throughout the growing season by NPQS to ensure phytosanitary procedures are employed to exclude plant pests and diseases, and that the screens are intact.

(d) The peppers must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. During the time the packinghouse is in use for exporting peppers to the continental United States, the packinghouse can accept peppers only from registered approved production sites. The peppers must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit from the production site to the packinghouse and while awaiting packing. The peppers must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit to the continental United States. These safeguards must remain intact until the arrival of the peppers in the United States or the shipment will not be allowed to enter the United States.

(e) Each shipment of peppers must be accompanied by a phytosanitary certificate of inspection issued by NPQS bearing the following additional declaration: “These peppers were grown in greenhouses in accordance with the conditions in 7 CFR 319.56–2qq and were inspected and found free from *Agrotis segetum*, *Helicoverpa armigera*, *Helicoverpa assulta*, *Mamestra brassicae*, *Monilinia fructigena*, *Ostrinia furnacalis*, *Scirtothrips dorsalis*, *Spodoptera litura*, and *Thrips palmi*.”

(f) The peppers must be imported in commercial shipments only.

(Approved by the Office of Management and Budget under control number 0579–0282)

[71 FR 29243, May 22, 2006]

§ 319.56–2rr Administrative instructions; conditions governing the importation of untreated grapefruit, sweet oranges, and tangerines from Mexico for processing.

Untreated grapefruit (*Citrus paradisi*), sweet oranges (*Citrus sinensis*), and tangerines (*Citrus reticulata*) may be imported into the United States from Mexico for extracting juice if they originate from production sites in Mexico that are approved by APHIS because they meet the following conditions and any other conditions determined by the Administrator to be necessary to mitigate the pest risk that such fruits pose:

(a) *Application of sterile insect technique.* Production sites, and a surrounding 1.5 mile buffer area, must be administered under an APHIS-approved preventative release program using sterile insect technique for the Mexican fruit fly (*Anastrepha ludens*).

(b) *Fruit fly trapping protocol.* (1) *Trapping densities.* In areas where grapefruit, sweet oranges, and tangerines are produced for export to the United States, APHIS approved traps and lures must be placed in production sites and a surrounding 1.5 mile buffer areas as follows:

(i) For Mexican fruit fly (*Anastrepha ludens*) and sapote fruit fly (*A. serpentina*): One trap per 50 hectares.

(ii) For Mediterranean fruit fly (*Ceratitidis capitata*): One to four traps per 250 hectares.

(2) *Fruit fly catches.* Upon trapping of a Mexican fruit fly, sapote fruit fly, or Mediterranean fruit fly in a production site or buffer area, exports from that production site are prohibited until the Administrator determines that the phytosanitary measures taken have been effective to allow the resumption of export from that production site.

(3) *Monitoring.* The trapping program must be monitored under an APHIS-approved quality control program.

(c) *Safeguarding.* Fruit must be safeguarded against fruit fly infestation using methods approved by APHIS from the time of harvest until processing in the United States.

(d) *Phytosanitary certificate.* Each shipment must be accompanied by a phytosanitary certificate issued by Mexico's national plant protection organization that contains additional declarations stating that the requirements of paragraphs (a), (b), and (c) of this section have been met.

(e) *Ports.* The harvested fruit may enter the United States only through a port of entry located in one of the Texas counties listed in § 301.64–3(c) of this chapter.

(f) *Route of transit.* Harvested fruit must travel on the most direct route to the processing plant from its point of entry into the United States as specified in the import permit. Such fruit may not enter or transit areas other than the Texas counties listed in § 301.64–3(c) of this chapter.

(g) *Approved destinations.* Processing plants within the United States must be located within an area in Texas that is under an APHIS-approved preventative release program using sterile insect technique for Mexican fruit fly.

(h) *Compliance agreements.* Processing plants within the United States must enter into a compliance agreement with APHIS in order to handle grapefruit, sweet oranges, and tangerines imported from Mexico in accordance with this section. APHIS will only enter into compliance agreements with facilities that handle and process grapefruit, sweet oranges, and tangerines from Mexico in such a way as to eliminate any risk that exotic fruit flies could be disseminated into the United States, as determined by APHIS.

(Approved by the Office of Management and Budget under control number 0579–0264)

[71 FR 33177, June 8, 2006]

§ 319.56–2ss Conditions governing the entry of grapes from Namibia.

Grapes (*Vitis vinifera*) may be imported into the United States from Namibia only under the following conditions:

(a) The grapes must be cold treated for *Cryptophlebia leucotreta*, *Ceratitidis capitata*, *Ceratitidis rosa*, and *Epichoristodes acerbella* in accordance with part 305 of this chapter.

(b) The grapes must be fumigated for *Aleurocanthus spiniferus*, *Apate monachus*, *Bustomus setulosus*, *Ceroplastes rusci*, *Cryptoblabes gnidiella*, *Dischista cincta*, *Empoasca lybica*, *Eremnus atratus*, *Eremnus cerealis*, *Eremnus setulosus*, *Eutetranychus orientalis*, *Helicoverpa armigera*, *Icerya seychellarum*, *Macchiademus diplopterus*, *Oxycarenus hyalinipennis*, *Pachnoda sinuata*, *Phlyctinus callosus*, *Scirtothrips aurantii*, *Scirtothrips dorsalis*, *Spodoptera littoralis*, and *Tanyrhynchus carinatus* in accordance with part 305 of this chapter.

(c) Each shipment of grapes must be accompanied by a phytosanitary certificate of inspection issued by the national plant protection organization of Namibia bearing the following additional declaration: “The grapes in this shipment have been inspected and

found free of *Maconellicoccus hirsutus*, *Nipaecoccus vastator*, *Rastrococcus iceryoides*, *Cochlicella ventricosa*, and *Theba pisana*.”

(d) The grapes may be imported in commercial shipments only.

(Approved by the Office of Management and Budget under control number 0579-0300)

[71 FR 55089, Sept. 21, 2006]

§ 319.56-3 Applications for permits for importation of fruits and vegetables; issuance of permits.

(a) *Permit required.* Except for fruits or vegetables that may be imported under the general permit provided in § 319.56-2(b), (c), and (d) or for fruits and vegetables imported under an oral permit in accordance with paragraph (d) of this section, no fruits or vegetables may be imported unless a specific written permit has been issued for the fruits or vegetables and unless the fruits or vegetables meet all other applicable requirements of this subpart and any other requirements specified by APHIS in the specific written permit.

(b) *Applying for a specific written permit.* Applications must be submitted in writing or electronically and should be made in advance of the proposed shipment and provided to the Plant Protection and Quarantine program.¹³ Applications must include the country or locality of origin of the fruits or vegetables, the port of first arrival, the name and address of the importer in the United States, and the identity and quantity of the fruit or vegetable.

(c) *Issuance of permits.* If APHIS approves the application, APHIS will issue a permit specifying the conditions applicable to the importation of the fruit or vegetable.

(d) *Issuance of oral permits.* Oral permits may be issued for noncommercial shipments if the commodity is admissible with inspection only. Oral per-

mits may be issued for commercial shipments of fruits and vegetables arriving in the United States without a specific written permit if all applicable entry requirements are met and proof of application for a specific written permit has been supplied to an inspector.

(Approved by the Office of Management and Budget under control number 0579-0049)

[68 FR 37922, June 25, 2003]

§ 319.56-4 Amendment, denial, or withdrawal of permits.

(a) The Administrator may amend, deny, or withdraw a permit at any time if he or she has determined that conditions exist that present an unacceptable risk of the fruit or vegetable introducing quarantine pests into the United States. If the withdrawal is oral, the withdrawal of the permit and the reasons for the withdrawal will be confirmed in writing as promptly as circumstances permit.

(b) Any person whose permit has been amended, denied, or withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the decision. The appeal must state all of the facts and reasons upon which the person relies to show that the permit was wrongfully amended, denied, or withdrawn. The Administrator will grant or deny the appeal, in writing, stating the reasons for granting or denying the appeal as promptly as circumstances permit. If there is a conflict as to any material fact and the person who has filed an appeal requests a hearing, a hearing shall be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. A permit withdrawal will remain in effect pending resolution of the appeal or the hearing.

[68 FR 37922, June 25, 2003]

§ 319.56-5 Notice of arrival by permittee.

(a) Immediately upon the arrival of fruits or vegetables, from the countries specified in § 319.56, at the port of first arrival, the permittee or his or her agent shall submit a notice, in duplicate, to the Plant Protection and Quarantine Programs, through the United

¹³Application for permits to import fruit and vegetables under this subpart may be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road Unit 136, Riverdale, MD 20737-1236; on the Internet using the APHIS Import Authorization System, <https://Web01.aphis.usda.gov/IAS.nsf/>; or by fax (301) 734-5786.

States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit; the kinds of fruits or vegetables; the quantity or the number of crates or other containers included in the shipment; the country or locality where the fruits or vegetables were grown; the date of arrival; the name of the vessel, the name and the number, if any, of the dock where the fruits or vegetables are to be unloaded, and the name of the importer or broker at the port of first arrival, or, if shipped by rail, the name of the railroad, the car numbers, and the terminal where the fruits or vegetables are to be unloaded.

(b) Permits may be revoked and other permits refused if the permittee or his or her agent fails to submit the notice of arrival or gives a false notice or in any other way violates the quarantine.

(Approved by the Office of Management and Budget under control number 0579-0049)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983; 70 FR 33326, June 7, 2005]

§319.56-6 Inspection and other requirements at the port of first arrival.

(a) *Inspection and treatment.* All imported fruits or vegetables shall be inspected, and shall be subject to such disinfection at the port of first arrival as may be required by an inspector, and shall be subject to reinspection at other locations at the option of an inspector. If an inspector finds a plant pest or evidence of a plant pest on or in any fruit or vegetable or its container, or finds that the fruit or vegetable may have been associated with other articles infested with plant pests, the owner or agent of the owner of the fruit or vegetable shall clean or treat the fruit or vegetable and its container as required by an inspector, and the fruit or vegetable shall also be subject to reinspection, cleaning, and treatment at the option of an inspector at any time and place before all applicable requirements of this subpart have been accomplished.

(b) *Assembly for inspection.* Any person moving fresh fruits and vegetables into

the United States must offer those agricultural products for entry at the U.S. port of first arrival. The owner or the agent must make full disclosure of the type, quantity, and country of origin of all fruits and vegetables in the shipment, either orally for non-commercial shipments or on an invoice or similar document for commercial shipments, and present that document to an inspector prior to moving the fruits or vegetables from the port in accordance with paragraph (d) of this section. All fruits and vegetables must be accurately disclosed and made available to an inspector for examination. The owner or agent must assemble the fruits and vegetables for inspection at the port of first arrival, or at any other place designated by an inspector, and in a manner designated by the inspector.

(c) *Refusal of entry.* If an inspector finds that an imported fruit or vegetable is prohibited or is so infested with a plant pest that, in the judgment of the inspector, it cannot be cleaned or treated, or contains soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

(d) *Release for movement.* No person may move a fruit or vegetable from the U.S. port of first arrival unless an inspector has:

- (1) Inspected the fruit or vegetable and released it;
- (2) Ordered treatment at the port of first arrival and, after treatment, released it;
- (3) Authorized movement to another location for treatment, further inspection, or destruction;
- (4) Ordered the fruit or vegetable to be re-exported; or
- (5) Waived the inspection.

(e) *Notice to owner of actions ordered by inspector.* If an inspector orders any disinfection, cleaning, treatment, re-exportation, or other action with regard to imported fruits or vegetables, the inspector shall file an emergency action notification (PPQ Form 523) with the owner of the fruits or vegetables or an agent of the owner. The owner must, within the time specified in the PPQ Form 523, destroy the fruits and vegetables, ship them to a point outside the United States, move them

to an authorized site, and/or apply treatments or other safeguards to the fruits and vegetables as prescribed by an inspector to prevent the introduction of plant pests into the United States.

(f) *Costs and charges.* The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture will be responsible only for the costs of providing the services of an inspector during regularly assigned hours of duty and at the usual places of duty.¹⁴ The owner of imported fruits or vegetables is responsible for all additional costs of inspection, treatment, movement, storage, or destruction ordered by an inspector under this subpart, including any labor, chemicals, packing materials, or other supplies required. APHIS will not be responsible for any costs or charges, other than those identified in this section.

[60 FR 62320, Dec. 6, 1995, as amended at 68 FR 37922, June 25, 2003]

§ 319.56-7 Inspection of baggage and cargo on the dock.

Inspectors of the U.S. Department of Agriculture are authorized to cooperate with the customs inspectors in the examination of all baggage or other personal belongings of passengers or members of crews of vessels or other carriers whenever such examination is deemed necessary for the purpose of enforcing the provisions of § 319.56 with respect to the entry of any prohibited or restricted fruits or vegetables or plants or portions of plants which may be contained in the baggage or other belongings of such persons.

§ 319.56-8 Territorial applicability.

The regulations in this subpart shall apply with respect to importations into the continental United States, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

Subpart—Wheat Diseases

SOURCE: At 70 FR 8231, Feb. 18, 2005, unless otherwise noted.

¹⁴Provisions relating to costs for other services of an inspector are contained in 7 CFR part 354.

§ 319.59-1 Definitions.

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

From. An article is considered to be "from" any country or locality in which it was grown.

Grain. Wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*) used for consumption or processing.

Hay. Host crops cut and dried for feeding to livestock. Hay cut after reaching the dough stage may contain mature kernels of the host crop.

Host crops. Plants or plant parts, including grain, seed, or hay, of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*).

Inspector. Any individual authorized by the Administrator of APHIS or the Commissioner of the Bureau of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this subpart.

Karnal bunt. A plant disease caused by the fungus *Tilletia indica* (Mitra) Mundkur.

Plant. Any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

Seed. Wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*) used for propagation.

Spp. (species). All species, clones, cultivars, strains, varieties, and hybrids, of a genus.

Straw. The vegetative material left after the harvest of host crops. Straw is generally used as animal feed or bedding, as mulch, or for erosion control.

United States. The States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam,

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the Virgin Islands of the United States, or any other territory or possession of the United States.

[70 FR 8231, Feb. 18, 2005, as amended at 70 FR 71212, Nov. 28, 2005]

§ 319.59-2 General import prohibitions; exceptions.

(a) Except as provided in paragraph (b) of this section, importation of *Triticum* spp. plants into the United States from any country except Canada is prohibited. This prohibition does not include seed.

(b) *Triticum* spp. plants, articles listed in § 319.59-3 as prohibited importation pending risk evaluation, and articles regulated for Karnal bunt in § 319.59-4(a) may be imported by the U.S. Department of Agriculture for experimental or scientific purposes if:

(1) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Center East, Beltsville, MD 20705, or at any port of entry with an asterisk listed in § 319.37-14(b) of this part;

(2) Imported pursuant to a departmental permit issued for such article and kept on file at the Plant Germplasm Quarantine Center;

(3) Imported under conditions of treatment, processing, growing, shipment, or disposal specified on the departmental permit and found by the Administrator to be adequate to prevent the introduction into the United States of tree, plant, or fruit diseases, injurious insects, and other plant pests, and

(4) Imported with a departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a departmental permit number corresponding to the number of the departmental permit issued for such article.

[70 FR 8231, Feb. 18, 2005, as amended at 70 FR 71212, Nov. 28, 2005]

§ 319.59-3 Articles prohibited importation pending risk evaluation.

The articles listed in paragraph (a) of this section from the countries and localities listed in paragraph (b) of this section are prohibited from being imported or offered for entry into the

United States, except as provided in § 319.59-2(b), pending the completion of an evaluation by APHIS of the potential pest risks associated with the articles. The national plant protection organization of any listed country or locality may contact APHIS¹ to initiate the preparation of a risk evaluation. If supported by the results of the risk evaluation, APHIS will take action to remove that country or locality from the list in paragraph (b) of this section.

(a) The following articles of *Triticum* spp. (wheat) or of *Aegilops* spp. (barb goatgrass, goatgrass):

(1) Seeds, plants, and straw (other than straw, with or without heads, which has been processed or manufactured for use indoors, such as for decorative purposes or for use in toys); chaff; and products of the milling process (*i.e.*, bran, shorts, thistle sharps, and pollards) other than flour; and

(2) Seeds of *Melilotus indica* (annual yellow sweetclover) and seeds of any other field crops that have been separated from wheat during the screening process.

(b) Afghanistan, Algeria, Armenia, Australia, Azerbaijan, Bangladesh, Belarus, Bulgaria, Chile, China, Cyprus, Egypt, Estonia, Falkland Islands, Georgia, Greece, Guatemala, Hungary, India, Iran, Iraq, Israel, Italy, Japan, Kazakhstan, Kyrgyzstan, Latvia, Libya, Lithuania, Moldova, Morocco, Nepal, North Korea, Oman, Pakistan, Portugal, Romania, Russia, Spain, Tajikistan, Tanzania, Tunisia, Turkey, Turkmenistan, South Africa, South Korea, Ukraine, Uzbekistan, and Venezuela.

[70 FR 8231, Feb. 18, 2005, as amended at 70 FR 71212, Nov. 28, 2005]

§ 319.59-4 Karnal bunt.

(a) *Regulated articles.* The following are regulated articles for Karnal bunt:

(1) Conveyances, including trucks, railroad cars, and other containers used to move host crops from a region listed in paragraph (b)(1) of this section that test positive for Karnal bunt

¹Requests should be submitted in writing to Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737-1236.

through the presence of bunted kernels;

(2) Plant parts, including grain, seed, straw, or hay, of all varieties of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* × *Secale cereale*) from a region listed in paragraph (b)(1) of this section, except for straw/stalks/seed heads for decorative purposes that have been processed or manufactured prior to movement and are intended for use indoors;

(3) *Tilletia indica* (Mitra) Mundkur;

(4) Mechanized harvesting equipment that has been used in the production of wheat, durum wheat, or triticale that has tested positive for Karnal bunt through the presence of bunted kernels; and

(5) Seed conditioning equipment and storage/handling equipment that has been used in the production of wheat, durum wheat, or triticale seed found to contain the spores of *Tilletia indica*.

(b)(1) Karnal bunt is known to occur in the following regions: Afghanistan, India, Iran, Iraq, Mexico, Nepal, Pakistan, and South Africa.

(2) The Administrator may recognize an area within a region listed in paragraph (b)(1) of this section as an area free of Karnal bunt whenever he or she determines that the area meets the requirements of the International Standard for Phytosanitary Measures (ISPM) No. 4, "Requirements for the establishment of pest free areas." The international standard was established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization and is incorporated by reference in §300.5 of this chapter. APHIS will publish a notice in the FEDERAL REGISTER and maintain on an APHIS Web site a list of the specific areas that are approved as areas in which Karnal bunt is not known to occur in order to provide the public with current, valid information. Areas listed as being free from Karnal bunt are subject to audit by APHIS to verify that they continue to merit such listing.

(c) *Handling, inspection and phytosanitary certificates.* Unless otherwise prohibited under §319.59-3 of this subpart, any articles described in paragraph (a)(2) of this section that are

from a region listed in paragraph (b)(1) of this section may be imported into the United States subject to the following conditions:

(1) The articles must be from an area that has been recognized, in accordance with paragraph (b)(2) of this section, to be an area free of Karnal bunt, or the articles have been tested and found to be free of Karnal bunt;

(2) The articles have not been commingled prior to arrival at a U.S. port of entry with articles from areas where Karnal bunt is known to occur;

(3) The articles offered for entry must be made available to an inspector for examination and remain at the port until released, or authorized further movement pending release, by an inspector; and

(4) The articles must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the region of origin that includes the following additional declaration: "These articles originated in an area where Karnal bunt is not known to occur, as attested to either by survey results or by testing for bunted kernels or spores."

(d) *Treatments.* (1) Prior to entry into the United States, the following articles must be cleaned by removing any soil and plant debris that may be present.

(i) All conveyances and mechanized harvesting equipment used for storing and handling wheat, durum wheat, or triticale that tested positive for Karnal bunt based on bunted kernels.

(ii) All grain storage and handling equipment used to store or handle seed that has tested spore positive or grain that has tested bunted-kernel positive.

(iii) All seed-conditioning equipment used to store or handle seed that has tested spore-positive.

(2) Articles listed in paragraphs (d)(1)(i) and (d)(1)(ii) of this section will require disinfection in addition to cleaning prior to entry into the United States if an inspector or an official of the plant protection organization of the country of origin determines that disinfection is necessary to prevent the spread of Karnal bunt. Disinfection is required for all seed conditioning equipment covered under paragraph

(d)(1)(iii) prior to entry into the United States.

(3) Items that require disinfection prior to entry into the United States must be disinfected by one of the methods specified in paragraphs (d)(3)(i) through (d)(3)(iii) of this section, unless a particular treatment is designated by an inspector or by an official of the plant protection organization of the country of origin:

(i) Wetting all surfaces to the point of runoff with a 1.5 percent sodium hypochlorite solution and letting stand for 15 minutes, then thoroughly washing down all surfaces after 15 minutes to minimize corrosion;

(ii) Applying steam to all surfaces until the point of runoff, and so that a temperature of 170 °F is reached at the point of contact; or

(iii) Cleaning with a solution of hot water and detergent, applied under pressure of at least 30 pounds per square inch, at a minimum temperature of 170 °F.

(Approved by the Office of Management and Budget under control number 0579–0240)

Subpart—Packing Materials

QUARANTINE

§ 319.69 Notice of quarantine.

(a) The following plants and plant products, when used as packing materials, are prohibited entry into the United States from the countries and localities named:

(1) Rice straw, hulls, and chaff; from all countries.

(2) Corn and allied plants (maize, sorghum, broomcorn, Sudan grass, napier grass, jobs-tears, teosinte, Polytoca, Sclerachne, Chionachne); all parts, from all countries except Mexico, and the countries of Central America, the West Indies, and South America.

(3) Cotton and cotton products (lint, waste, seed cotton, cottonseed, and cottonseed hulls); from all countries.

(4) Sugarcane; all parts of the plant including bagasse, from all countries.

(5) Bamboo; leaves and small shoots, from all countries.

(6) Leaves of plants; from all countries.

(7) Forest litter; from all countries.

(8) Soil containing an appreciable admixture of vegetable matter, from all countries, except such types of soil or earth as are authorized as safe for packing by the rules and regulations promulgated supplemental to this quarantine.

Exceptions to the above prohibitions may be authorized in the case of specific materials which have been so prepared, manufactured, or processed that in the judgment of the inspector no pest risk is involved in their entry.

(b) The following plants and plant products when used as packing materials will be permitted entry into the United States from the countries and localities designated below only in accordance with the regulations supplemental to this quarantine:

(1) Cereal straw, hulls, and chaff (such as oats, barley, and rye) from all countries, except rice straw, hulls, and chaff, which are prohibited importation from all countries by paragraph (a)(1) of this section, and except wheat straw, hulls, and chaff, which are restricted importation by § 319.59 of this part from any country or locality listed in § 319.59–2 of this part.

(2) Corn and allied plants (maize, sorghum, broomcorn, Sudan grass, napier grass, jobs-tears, teosinte, Polytoca, Sclerachne, Chionachne); all parts, from Mexico and the countries of Central America, the West Indies, and South America.

(3) Grasses and hay and similar indefinite dried or cured masses of grasses, weeds, and herbaceous plants; from all countries.

(4) Soil containing an appreciable admixture of vegetable matter, from all countries, which is authorized as safe for packing by the rules and regulations promulgated supplemental to this quarantine.

(c) However, whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to pest risk involved in the movement of the articles to which the regulations supplemental hereto apply, make it safe to modify by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the

regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) This quarantine shall leave in full force and effect all other quarantines and orders.

(e) As used in this subpart, unless the context otherwise requires, the term *United States* means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

[24 FR 10788, Dec. 29, 1959, as amended at 26 FR 9333, Oct. 4, 1961; 36 FR 24917, Dec. 24, 1971; 60 FR 27682, May 25, 1995; 63 FR 31102, June 8, 1998]

§ 319.69a Administrative instructions and interpretation relating to the entry into Guam of plant materials specified in § 319.69.

(a) Plants and products designated in § 319.69(a)(1), (3), (4), and (5) and (b)(1) and (3) as prohibited or restricted entry into the United States from the countries and localities named may be imported into Guam as packing materials without prohibition or restriction under this subpart. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

(b) Corn and allied plants listed in § 319.69(a)(2) may be imported into Guam subject to the requirements of §§ 319.69-2, 319.69-3, and 319.69-4.

(c) Under § 319.69(a) (6) and (7), coconut fronds and other parts of the coconut trees are prohibited entry into Guam as packing materials except as permitted in § 319.37-9.

[24 FR 10788, Dec. 29, 1959, as amended at 60 FR 27682, May 25, 1995; 62 FR 65009, Dec. 10, 1997]

RULES AND REGULATIONS

§ 319.69-1 Definitions.

(a) *Packing materials.* The expression "packing material", as used in § 319.69, includes any of the plants or plant products enumerated, when these are associated with or accompany any commodity or shipment to serve for filling, wrapping, ties, lining, mats, moisture retention, protection, or for any other purpose; and the word "packing", as used in the expression "packing materials", shall include the presence of such materials within, in contact with, or accompanying such commodity or shipment.¹

(b) *Soil containing vegetable matter.* Soil containing an appreciable admixture of vegetable matter, here brought under quarantine only because its content of decaying vegetation or plant remains carries a definite pest risk, is to be distinguished from soil of purely mineral or earthy composition, which is not covered by this quarantine.

(c) *Inspector.* An inspector of the U.S. Department of Agriculture.

§ 319.69-2 Freedom from pests.

All packing materials allowed entry under restriction shall be free from injurious insects and plant diseases.

§ 319.69-3 Entry inspection.

All packing materials shall be subject to inspection at time of entry.

§ 319.69-4 Disposition of materials found in violation.

If the inspector shall find packing materials associated with or accompanying any commodity or shipment being imported, or to have been imported, in violation of § 319.69 or of the regulations in this subpart or shall find them infested or infected with injurious insects or plant diseases, the inspector may refuse entry to the shipment, or the inspector may seize and destroy or otherwise dispose of such

¹Since it is the packing materials themselves which constitute the danger and not the manner of use, it is intended that the definition shall include their presence within or accompanying a shipment regardless of their function or relation to a shipment or the character of the shipment.

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packing material, or the inspector may require it to be replaced, or sterilized, or otherwise treated.

[24 FR 10788, Dec. 29, 1959, as amended at 70 FR 33326, June 7, 2005]

§ 319.69-5 Types of soil authorized for packing.

The following types of soil or earth are authorized as safe for packing: (a) Peat, (b) peat moss, and (c) Osmunda fiber.

Subpart—Coffee

SOURCE: 63 FR 65650, Nov. 30, 1998, unless otherwise noted.

§ 319.73-1 Definitions.

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

Inspector. Any individual authorized by the Administrator to enforce this subpart.

Sample. Unroasted coffee not for commercial resale. Intended use includes, but is not limited to, evaluation, testing, or market analysis.

United States. The States, District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

Unroasted coffee. The raw or unroasted seeds or beans of coffee.

§ 319.73-2 Products prohibited importation.

(a) To prevent the spread of the coffee berry borer *Hypothenemus hampei* (Ferrari) and the fungus *Hemileia vastatrix* (Berkely and Broome), which causes an injurious rust disease, the following articles are prohibited importation into Hawaii and Puerto Rico, except as provided in § 319.73-3 of this subpart:

- (1) Unroasted coffee;
- (2) Coffee plants and leaves; and
- (3) Empty sacks previously used for unroasted coffee.

(b) Due to the risk of Mediterranean fruit fly and other injurious insects, seeds of all kinds when in pulp, including coffee berries or fruits, are prohib-

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ited importation into all parts of the United States by § 319.37-2(a) of this part, except as provided in § 319.37-2(c).

§ 319.73-3 Conditions for transit movement of certain products through Puerto Rico or Hawaii.

(a) *Mail.* Samples of unroasted coffee that are transiting Hawaii or Puerto Rico en route to other destinations and that are packaged to prevent the escape of any plant pests may proceed without action by an inspector. Packaging that would prevent the escape of plant pests includes, but is not limited to, sealed cartons, airtight containers, or vacuum packaging. Samples of unroasted coffee received by mail but not packaged in this manner are subject to inspection and safeguard by an inspector. These samples must be returned to origin or forwarded to a destination outside Hawaii or Puerto Rico in a time specified by an inspector and in packaging that will prevent the escape of any plant pests. If this action is not possible, the samples must be destroyed.

(b) *Cargo.* Samples of unroasted coffee that are transiting Hawaii or Puerto Rico as cargo and that remain on the carrier may proceed to a destination outside Hawaii or Puerto Rico without action by an inspector. Samples may be transshipped in Puerto Rico or Hawaii only after an inspector determines that they are packaged to prevent the escape of any plant pests. Samples that are not packaged in this manner must be rewrapped or packaged in a manner prescribed by an inspector to prevent the escape of plant pests before the transshipment will be allowed.

(c) Other mail, cargo, and baggage shipments of articles covered by § 319.73-2 arriving in Puerto Rico or Hawaii may not be unloaded or transshipped in Puerto Rico or Hawaii and are subject to inspection and other applicable requirements of the Plant Safeguard Regulations (part 352 of this chapter).

§ 319.73-4 Costs.

All costs of inspection, packing materials, handling, cleaning, safeguarding, treating, or other disposal of products or articles under this subpart will be borne by the owner, importer,

or agent of the owner or importer, including a broker. The services of an inspector during regularly assigned hours of duty and at the usual places of duty will be furnished without cost to the importer.

Subpart—Cut Flowers

SOURCE: 64 FR 38110, July 15, 1999, unless otherwise noted.

§ 319.74-1 Definitions.

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

Cut flower. The highly perishable commodity known in the commercial flower-producing industry as a cut flower, which is the severed portion of a plant, including the inflorescence and any parts of the plant attached to it, in a fresh state. This definition does not include dried, bleached, dyed, or chemically treated decorative plant materials; filler or greenery, such as fern fronds and asparagus plumes, frequently packed with fresh cut flowers; or Christmas greenery, such as holly, mistletoe, and Christmas trees.

Inspector. Any individual authorized by the Administrator to enforce this subpart.

United States. All of the States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories or possessions of the United States.

§ 319.74-2 Conditions governing the entry of cut flowers.

(a) **Inspection.** All cut flowers imported into the United States must be made available to an inspector for examination at the port of first arrival and must remain at the port of first arrival until released, or authorized further movement, by an inspector.

(b) **Actions to prevent the introduction of plant pests; notice by an inspector.** If an inspector orders any disinfection, cleaning, treatment, reexportation, or other action with regard to imported cut flowers that are found to be in-

festes with injurious plant pests or infected with diseases, the inspector will provide an emergency action notification (PPQ Form 523) to the importer, owner, or agent or representative of the importer or owner of the cut flowers. The importer, owner, or agent or representative of the importer or owner must, within the time specified in the PPQ Form 523 and at his or her own expense, destroy the cut flowers, ship them to a point outside the United States, move them to an authorized site, and/or apply treatments, clean, or apply other safeguards to the cut flowers as prescribed by the inspector on the PPQ Form 523. Further, if the importer, owner, or agent or representative of the importer or owner fails to follow the conditions on PPQ Form 523 by the time specified on the form, APHIS will arrange for destruction of the cut flowers, and the importer, owner, or agent or representative of the importer or owner will be responsible for all costs incurred. Cut flowers that have been cleaned or treated must be made available for further inspection, cleaning, and treatment at the option of the inspector at any time and place indicated by the inspector before the requirements of this subpart will have been met. Neither the Department of Agriculture nor the inspector may be held responsible for any adverse effects of treatment on imported cut flowers.

(c) **Fumigation for agromyzids.** (1) Cut flowers imported from any country or locality and found upon inspection to be infested with agromyzids (insects of the family Agromyzidae) must be fumigated at the time of importation with methyl bromide in accordance with paragraph (c)(2) of this section, with the following exceptions:

(i) Fumigation will not be required for cut flowers imported from Canada (including Labrador and Newfoundland) or Mexico because of the finding of agromyzids.

(ii) Fumigation will not be required for cut flowers of *Chrysanthemum* spp. imported from Colombia or the Dominican Republic because of the finding of agromyzids, when such agromyzids are identified by an inspector to be only agromyzids of the species *Liriomyza trifolii* (Burgess).

(2) *Fumigation schedules.* Fumigation of cut flowers for agromyzids (insects of the family Agromyzidae) must consist of fumigation with methyl bromide at normal atmospheric pressure in a chamber or under a tarpaulin in accordance with one of the following schedules:

- 1½ lbs. per 1,000 cu. ft. for 2 hours at 80-90 °F.
(19 oz. concentration at first ½ hour)
(12 oz. concentration at 2 hours); or
- 2 lbs. per 1,000 cu. ft. for 2 hours at 70-79 °F.
(24 oz. concentration at first ½ hour)
(16 oz. concentration at 2 hours); or
- 2½ lbs. per 1,000 cu. ft. for 2 hours at 60-69 °F.
(30 oz. concentration at first ½ hour)
(20 oz. concentration at 2 hours); or
- 3 lbs. per 1,000 cu. ft. for 2 hours at 50-59 °F.
(36 oz. concentration at first ½ hour)
(24 oz. concentration at 2 hours); or
- 3½ lbs. per 1,000 cu. ft. for 2 hours at 40-49 °F.
(41 oz. concentration at first ½ hour)
(27 oz. concentration at 2 hours)

NOTE: There is a possibility that some cut flowers could be damaged by such fumigation.

(d) *Irradiation.* Cut flowers and foliage that are required under this part to be treated or subjected to inspection to control one or more of the plant pests listed in §305.31(a) of this chapter may instead be treated with irradiation. Commodities treated with irradiation for plant pests listed in §305.31(a) must be irradiated at the doses listed in §305.31(a), and the irradiation treatment must be conducted in accordance with the other requirements of §305.34 of this chapter. There is a possibility that some cut flowers could be damaged by such irradiation.

(e) *Refusal of entry.* If an inspector finds that imported cut flowers are so infested with a plant pest or infected with disease that, in the judgment of the inspector, they cannot be cleaned or treated, or if they contain soil or other prohibited contaminants, the entire lot may be refused entry into the United States.

[64 FR 38110, July 15, 1999, as amended at 71 FR 4464, Jan. 27, 2006]

§319.74-3 Importations by the Department.

The U.S. Department of Agriculture may import cut flowers for experimental or scientific purposes under such conditions and restrictions as the

Administrator may prescribe to prevent the dissemination of plant pests.

§319.74-4 Costs and charges.

The Animal and Plant Health Inspection Service, U.S. Department of Agriculture, will be responsible only for the costs of providing the services of an inspector during regularly assigned hours of duty and at the usual places of duty (provisions relating to costs for other services of an inspector are contained in 7 CFR part 354). The importer, owner, or agent or representative of the importer or owner of cut flowers is responsible for all additional costs of inspection, treatment, movement, storage, or destruction ordered by an inspector under this subpart, including the costs of any labor, chemicals, packing materials, or other supplies required.

Subpart—Khapra Beetle

§319.75 Restrictions on importation of restricted articles; disposal of articles refused importation.

(a) The Secretary has determined that in order to prevent the entry into the United States of khapra beetle (*Trogoderma granarium* Everts) it is necessary to restrict the importation of certain articles from foreign countries and localities. Accordingly, no person shall import any restricted article unless in conformity with all of the applicable restrictions in this subpart.

(b) Any article refused importation for noncompliance with the requirements of this subpart shall be promptly removed from the United States or abandoned by the importer, and pending such action shall be subject to the immediate application of such safeguards against escape of plant pests as the inspector determines necessary to prevent the introduction into the United States of plant pests. If the article is not promptly safeguarded, removed from the United States, or abandoned by the importer for destruction, it may be seized, destroyed, or otherwise disposed of in accordance with section 414 of the Plant Protection Act (7 U.S.C. 7714).

(c) A restricted article may be imported without complying with other restrictions under this subpart if:

(1) Imported by the U.S. Department of Agriculture for experimental or scientific purposes;

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville, MD 20705, or at a port of entry designated by an asterisk in § 319.37-14(b);

(3) Imported pursuant to a Departmental permit issued for such article and kept on file at the port of entry;

(4) Imported under conditions specified on the Departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of plant pests, i.e., conditions of treatment, processing, growing, shipment, disposal; and

(5) Imported with a Departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a Departmental permit number corresponding to the number of the Departmental permit issued for such article.

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982; 66 FR 21057, Apr. 27, 2001]

§ 319.75-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural, and vice-versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture for Plant Protection and Quarantine, or any other officer or employee of the Department to whom authority to act in his/her stead has been or many hereafter be delegated.

From. An article is considered to be "from" any country or locality in which it originated or any country(ies) or locality(ies) in which it was offloaded prior to arrival in the United States.

Import. (importation, imported). To import or move into the United States.

Inspector. Any employee of Plant Protection and Quarantine, Animal and

Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the regulations in this subpart.

Nursery stock. All field-grown florist's stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots.

Person. Any individual, corporation, company, society, association or other organized group.

Phytosanitary certificate of inspection. A document relating to a restricted article, which is issued by a plant protection official of the country in which the restricted article was grown, which is issued not more than 15 days prior to shipment of the restricted article from the country in which grown, which is addressed to the plant protection service of the United States (Plant Protection and Quarantine), which contains a description of the restricted article intended to be imported into the United States, which certifies that the article has been thoroughly inspected, is believed to be free from injurious plant diseases, injurious insect pests, and other plant pests, and is otherwise believed to be eligible for importation pursuant to the current phytosanitary laws and regulations of the United States.

Plant gum. Any of numerous colloidal polysaccharide substances of plant origin that are gelatinous when moist but harden on drying. Plant gums include but are not limited to acacia gum, guar gum, gum arabic, locust gum and tragacanth gum.

Plant pest. The egg, pupal, and larval stages as well as any other living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any

plants or parts thereof, or any processed, manufactured, or other products of plants.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his/her stead has been or may hereafter be delegated.

United States. The States, District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982; 49 FR 1876, Jan. 16, 1984; 50 FR 8704, 8706, Mar. 5, 1985; 66 FR 21057, Apr. 27, 2001]

§319.75-2 Restricted articles.¹

(a) The following articles from the specified localities or countries are restricted articles:

(1) Seeds of the plant family Cucurbitaceae² if in shipments greater than two ounces, if not for propagation, and if from a country listed in paragraph (b) of this section;

(2) Brassware and wooden screens from Bombay, India;

(3) Goatskins, lambskins, and sheepskins (excluding goatskins, lambskins, and sheepskins which are fully tanned, blue-chromed, pickled in mineral acid,

or salted and moist) from Sudan or India;

(4) Plant gums shipped as bulk cargo (in an unpackaged state) if from a country listed in paragraph (b) of this section;

(5) Used jute or burlap bagging not containing cargo if from a country listed in paragraph (b) of this section;³

(6) Used jute or burlap bagging from a country listed in paragraph (b) of this section that contains cargo, and the cargo in such bagging;³

(7) Used jute or burlap bagging from a country listed in paragraph (b) of this section that is used as a packing material (such as filler, wrapping, ties, lining, matting, moisture retention material, or protection material), and the cargo for which the used jute or burlap bagging is used as a packing material;³ and

(8) Whole chilies (*Capsicum* spp.), whole red peppers (*Capsicum* spp.), and cumin seeds (*Cuminum cyminum*) in new jute or burlap bags from Pakistan.

(b) Afghanistan, Algeria, Bangladesh, Burma, Cyprus, Egypt, India, Iran, Iraq, Israel, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Saudi Arabia, Senegal, Sri Lanka, Sudan, Syria, Tunisia, Turkey, and Upper Volta.

[50 FR 8706, Mar. 5, 1985]

§319.75-3 Permits.

(a) A restricted article may be imported only after issuance of a written permit by Plant Protection and Quarantine.

(b) An application for a written permit should be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236, at least 60 days prior to arrival of the article at the port of entry. The completed application shall include the following information:⁴

³Such bagging may be subject to additional restrictions under the provisions in 7 CFR 319.8 *et seq.*

⁴Application forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland

¹The importation of restricted articles may be subject to prohibitions or restrictions under other provisions of 7 CFR part 319. For example, fresh whole chilies (*Capsicum* spp.) and fresh whole red peppers (*Capsicum* spp.) from Pakistan are prohibited from being imported into the United States under the provisions of 7 CFR 319.56 *et seq.*

²Seeds of the plant family Cucurbitaceae include but are not limited to: *Benincasa hispida* (wax gourd), *Citrullus Lanatus* (watermelon), *Cucumis melon* (muskmelon, cantaloup, honeydew), *Cucumis sativius* (cucumber), *Cucurbita pepo* (pumpkin, squashes, vegetable marrow), *Lagenaria siceraria* (calabash, gourd), *Luffa cylindrica* (dishcloth gourd), *Mormoridica charantia* (bitter melon), and *Sechium edule* (chayote).

(1) Name, address, and telephone number of the importer;

(2) Approximate quantity and kinds of articles intended to be imported;

(3) Country or locality of origin;

(4) Country(ies) or locality(ies) where it is intended to be off-loaded prior to arrival in the United States;

(5) Intended U.S. port of entry;

(6) Means of transportation; and

(7) Expected date of arrival.

(c) A permit indicating the applicable conditions for importation under this subpart will be issued by Plant Protection and Quarantine Programs if, after review of the application, the articles are deemed eligible to be imported into the United States under the conditions specified in the permit. However, even if such a permit is issued, the regulated article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no remedial measures pursuant to section 414 of the Plant Protection Act (7 U.S.C. 7714) are necessary with respect to the regulated article.⁵

(d) Any permit which has been issued may be withdrawn by an inspector or the Deputy Administrator if he/she determines that the holder thereof has not complied with any condition for the use of the document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances permit. If there is a conflict as to any material fact, a

hearing shall be held to resolve such conflict.

(Approved by the Office of Management and Budget under control number 0579-0049)

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982; 48 FR 57466, Dec. 30, 1983; 49 FR 1876, Jan. 16, 1984; 50 FR 8706, Mar. 5, 1985; 59 FR 67610, Dec. 30, 1994; 66 FR 21057, Apr. 27, 2001]

§ 319.75-4 Treatments.

A restricted article prior to movement into the United States from the port of entry shall be treated in accordance with part 305 of this chapter for possible infestation with khapra beetle in accordance with part 305 of this chapter.

[46 FR 38334, July 27, 1981, as amended at 49 FR 1876, Jan. 16, 1984; 50 FR 8706, Mar. 5, 1985; 70 FR 33326, June 7, 2005]

§ 319.75-5 Marking and identity.

(a) Any restricted article at the time of importation shall plainly and correctly bear on the outer container (if in a container) or on the restricted article (if not in a container) the following information:

(1) General nature and quantity of the contents,

(2) Country or locality of origin,

(3) Name and address of shipper, owner, or person shipping or forwarding the article,

(4) Name and address of consignee,

(5) Identifying shipper's mark and number, and

(b) Any restricted article shall be accompanied at the time of importation by an invoice or packing list indicating the contents of the shipment.

(Approved by the Office of Management and Budget under control number 0579-0049)

[46 FR 38334, July 27, 1981, as amended at 47 FR 3085, Jan. 22, 1982; 48 FR 57466, Dec. 30, 1983]

§ 319.75-6 Arrival notification.

Promptly upon arrival of any restricted article at a port of entry, the importer shall notify Plant Protection and Quarantine of the arrival by such means as a manifest, Customs entry

20737-1236, or local offices which are listed in telephone directories.

⁵ An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

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document, commercial invoice, waybill, a broker's document, or a notice form provided for that purpose.

(Approved by the Office of Management and Budget under control number 0579-0049)

[46 FR 38334, July 27, 1981, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.75-7 Costs and charges.

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.³ The importer shall be responsible for arrangements for treatments required under § 319.75-4. Any treatment required under § 319.75-4 for a restricted article shall be performed at the port of entry by a nongovernmental fumigator at the importer's expense, and shall be performed under the supervision of an inspector. Plant Protection and Quarantine will not be responsible for any costs or charges, other than those indicated in this section.

[46 FR 38334, July 27, 1981]

§ 319.75-8 Ports of entry.

Any restricted article shall be imported only at a port of entry listed in § 319.37-14 of this part and found by the Deputy Administrator and specified on the permit issued pursuant to § 319.75-3 to have a nongovernmental fumigator available at the port to treat such restricted article pursuant to § 319.75-4. It is the responsibility of the importer to arrange with the nongovernmental fumigator for treatment of the article.

[46 FR 38334, July 27, 1981]

§ 319.75-9 Inspection and phytosanitary certificate of inspection.

(a) Any nursery stock, plant, fruit, vegetable, root, bulb, or other plant product designated as a restricted article and grown in a country maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, injurious insect pests, and other plant pests shall be accompanied by a phytosanitary certificate of in-

³Provisions relating to costs for other services of an inspector are contained in 7 CFR part 354.

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spection from the plant protection service of such country at the time of importation or offer for importation into the United States. Such certificate may cover more than one article and more than one container kept together during shipment and offer for importation.

(b) Any nursery stock, plant, fruit, vegetable, root, bulb, seed, or other plant product designated as a restricted article which is accompanied by a valid phytosanitary certificate of inspection is subject to inspection by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of injurious plant diseases, injurious insect pests, and other plant pests, and whether such article is otherwise eligible to be imported into the United States.

(c) Any nursery stock, plant, fruit, vegetable, root, bulb, seed, or other plant product designated as a restricted article and grown in a country not maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, or injurious insect pests, and other plant pests shall be inspected by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of such diseases and pests and whether such article is otherwise eligible to be imported into the United States.

[50 FR 8707, Mar. 5, 1985]

Subpart—Gypsy Moth Host Material from Canada

SOURCE: 64 FR 45866, Aug. 23, 1999, unless otherwise noted.

§ 319.77-1 Definitions.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

Canadian infested area. Any area of Canada listed as a gypsy moth infested area in § 319.77-3 of this subpart.

Canadian noninfested area. Any area of Canada that is not listed as a gypsy moth infested area in § 319.77-3 of this subpart.

Certification of origin. A signed, accurate statement certifying the area in which a regulated article was produced or grown. The statement may be provided directly on the shipping documents accompanying shipments of commercial wood products from Canada, or may be provided on a separate certificate.

Gypsy moth. The insect known as the gypsy moth, *Lymantria dispar* (Linnaeus), in any stage of development.

Import (imported, importation). To bring or move into the territorial limits of the United States.

Mobile home. Any vehicle, other than a recreational vehicle, designed to serve, when parked, as a dwelling or place of business.

Outdoor household articles. Articles associated with a household that are generally kept or used outside the home. Examples of outdoor household articles are awnings, barbeque grills, bicycles, boats, dog houses, firewood, garden tools, hauling trailers, outdoor furniture and toys, recreational vehicles and their associated equipment, and tents.

Phytosanitary certificate. A document issued by an official authorized by the national government of Canada that contains a description of the regulated article intended for importation into the United States and that certifies that the article has been thoroughly inspected or treated, is believed to be free from plant pests, and is otherwise believed to be eligible for importation pursuant to the current phytosanitary laws and regulations of the United States. A phytosanitary certificate must be addressed to the Animal and Plant Health Inspection Service and may be issued no more than 14 days prior to the shipment of the regulated article.

Recreational vehicles. Vehicles, including pickup truck campers, one-piece motor homes, and travel trailers, designed to serve as temporary places of dwelling.

United States. All of the States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

U.S. infested area. Any area of the United States listed as a gypsy moth generally infested area in § 301.45-3 of this chapter.

U.S. noninfested area. Any area of the United States that is not listed as a gypsy moth generally infested area in § 301.45-3 of this chapter.

[64 FR 45866, Aug. 23, 1999, as amended at 65 FR 38175, June 20, 2000]

§ 319.77-2 Regulated articles.

In order to prevent the spread of gypsy moth from Canada into non-infested areas of the United States, the gypsy moth host materials listed in paragraphs (a) through (g) of this section are designated as regulated articles. Regulated articles may be imported into the United States from Canada only under the conditions described in § 319.77-4 of this subpart.

- (a) Trees without roots (e.g., Christmas trees), unless they were greenhouse-grown throughout the year;
- (b) Trees with roots, unless they were greenhouse-grown throughout the year;
- (c) Shrubs with roots and persistent woody stems, unless they were greenhouse-grown throughout the year;
- (d) Logs with bark attached;
- (e) Pulpwood with bark attached;
- (f) Bark and bark products;
- (g) Outdoor household articles; and
- (h) Mobile homes and their associated equipment.

[64 FR 45866, Aug. 23, 1999, as amended at 71 FR 40878, July 19, 2006]

§ 319.77-3 Gypsy moth infested areas in Canada.

The following areas in Canada are known to be infested with gypsy moth:

(a) *Province of New Brunswick*—(1) *Charlotte County*. That portion of Charlotte County that includes the following parishes: Campobello Island, Dumbarton, Dufferin, Grand Manan Island, St. Andrews, St. Croix, St. David, St. George, St. James, St. Patrick, and St. Stephen.

(2) *Kings County*. That portion of Kings County that includes the following parishes: Greenwich, Kars, and Springfield.

(3) *Queens County*. (i) That portion of Queens County that includes the following parishes: Canning, Cambridge,

Gagetown, Johnston, and Wickham; and

(ii) That portion of Chipman Parish south or west of highway 10; and

(iii) That portion of Waterborough Parish west of highway 10 and south of highway 2.

(4) *Sunbury County*. That portion of Sunbury County that includes the following parishes: Blissville, Burton, Gladstone, Lincoln, and Sheffield.

(5) *York County*. (i) That portion of York County that includes the City of Fredericton and the following parishes: North Lake and McAdam; and

(ii) That portion of Queensbury parish south and east of the Scotch Lake Road beginning in the west at Bear Island on the St. John River and ending at the Parish border on the east.

(b) *Province of Nova Scotia*—(1) *Annapolis County*. The entire county.

(2) *Digby County*. The entire county.

(3) *Halifax County*. The area of the county bounded by a line beginning at the intersection of the Halifax/Lunenburg County border and the Atlantic Ocean; then north along the Halifax/Lunenburg County border to the Halifax/Hants County border; then east along the Halifax/Hants County border to route 354; then south along route 354 to route 568 (Beaverbank-Windsor Junction Road); then east along route 568 (Beaverbank-Windsor Junction Road) to route 416 (Fall River Road); then east and north along route 416 (Fall River Road) to route 2; then south along route 2 to route 102/118; then south along route 118 to route 107; then south along route 107 to route 7; then east along route 7 to route 328; then south along route 328 to the shoreline of Cole Harbour; then west along the seashore from Cole Harbour to the point of beginning.

(4) *Hants County*. The area of the county bounded by a line beginning at the intersection of the Hants/Kings County border and the shoreline of the Minas Basin; then southwest along the Hants/Kings County border to the Hants/Lunenburg County border; then southeast along the Hants/Lunenburg County border to the Hants/Halifax County border; then east along the Hants/Halifax County border to route 354; then north along route 354 to the Minas Basin; then west along the

shoreline of the Minas Basin to the point of beginning.

(5) *Kings County*. The entire county.

(6) *Lunenburg County*. The entire county.

(7) *Queens County*. The entire county.

(8) *Shelburne County*. The entire county.

(9) *Yarmouth County*. The entire county.

(c) *Province of Ontario*. (1) That portion of the Province of Ontario that includes the following counties and regional municipalities: Brant, Bruce, Dufferin, Durham, Elgin, Essex, Frontenac, Grey, Haldimand-Norfolk, Haliburton, Halton, Hamilton-Wentworth, Hastings, Huron, Kent, Lambton, Lanark, Leeds-Granville, Lennox-Addington, Middlesex, Muskoka, Niagara, Northumberland, Ottawa-Carleton, Oxford, Parry Sound, Peel, Perth, Peterborough, Prescott-Russell, Prince Edward, Renfrew, Simcoe, Stormont-Dundas-Glengarry, Victoria, Waterloo, Wellington, and York; and

(2) That portion of Algoma District that includes the City of Sault Ste. Marie and the following townships: Bright, Bright Additional, Cobden, Denis, Garden River First Nation, Indian Reserve #7, Johnson, Korah, Laird, Lefroy, Lewis, Long, MacDonald, Parke, Plummer Additional, Prince, Tarbutt, Tarbutt Additional, Tarentorus, Thessalon, Thompson, Shedden, Spragge, and Striker; and

(3) That portion of Algoma District south of Highway 17 and east of the City of Sault Ste. Marie; and

(4) That portion of Manitoulin District that includes: Cockburn Island, Great Cloche Island, Manitoulin Island, St. Joseph Island, and all Indian Reserves; and

(5) That portion of Nipissing District that includes the City of North Bay; and

(6) That portion of Nipissing District south of the Ottawa and Mattawa rivers; and

(7) That portion of Nipissing District south of highway 17 and west of the City of North Bay; and

(8) That portion of Sudbury District that includes the City of Sudbury and the townships of Baldwin, Dryden,

Dunlop, Graham, Hallam, Hymen, Indian Reserves #4, #5, and #6, Lorne, Louise; May, McKim, Nairn, Neelon, Porter, Salter, Shakespeare, Victoria, and Waters; and

(9) That portion of the Sudbury District south of Highway 17.

(d) *Province of Quebec.* (1) That portion of the Province of Quebec that includes the following regional county municipalities: Acton, Arthabaska, Asbestos, Beauce-Sartigan, Beauharnois-Salaberry, Bécancour, Bellechasse, Brome-Missisquoi, Champlain, Coaticook, Communauté Urbaine de Montréal, Communauté Urbaine de L'Outaouais, D'Autray, Desjardins, Deux-Montagnes, Drummond, Francheville, Joliette, L'Amiante, L'Assomption, L'Érable, L'île-d'Orléans, Lajemmerais, Laval, La Nouvelle-Beauce, La Rivière-du-Nord, La Vallée-du-Richelieu, Le Bas-Richelieu, Le Granit, Le Haut-Richelieu, Le Haut-Saint-François, Le Haut-Saint-Laurent, Le Haute-Yamaska, Le Val-Saint-François, Les Chutes-de-la-Chaudière, Les Collines-de-L'Outaouais, Les Etchemins, Les Jardins-de-Napierville, Les Maskoutains, Les Moulins, Lotbinière, Memphrémagog, Mirabel, Montcalm, Montmagny, Nicolet-Yamaska, Robert-Cliche, Roussillon, Rouville, Sherbrooke, Thérèse-de-Blainville, and Vaudreuil-Soulanges; and

(2) That portion of the regional county municipality of Antoine-Labellé that includes the following municipalities: Notre-Dame-du-Laus, Notre-Dame-de-Pontmain, and Saint-Aimé-du-Lac-des-Iles; and

(3) That portion of the regional county municipality of Argenteuil that includes the following municipalities: Brownsburg, Calumet, Carillon, Chatham, Grenville, Lachute, Saint-André-d'Argenteuil, and Saint-André-Est; and

(4) That portion of the regional county municipality of Communauté Urbaine De Québec that includes the following municipalities: Cap-Rouge, L'Ancienne-Lorette, Québec, Saint-Augustin-de-Desmaures, Sainte-Foy, Sillery, and Vanier; and

(5) That portion of the regional county municipality of La Vallée-de-la-Gatineau that includes the following municipalities: Denholm, Gracefield,

Kazabazua, Lac-Sainte-Marie, Low, Northfield, and Wright; and

(6) That portion of the regional county municipality of Le Centre-de-la-Mauricie that includes the following municipalities: Charette, Notre-Dame-du-Mont-Carmel, Sainte-Elie, Shawinigan, and Shawinigan (Sud); and

(7) That portion of the regional county municipality of Les Laurentides that includes the following municipality: La Conception; and

(8) That portion of the regional county municipality of Les Pays-d'en-Haut that includes the following municipality: Mont-Rolland; and

(9) That portion of the regional county municipality of Maskinongé that includes the following municipalities: Louiseville, Maskinongé, Saint-Joseph-de-Maskinongé, Saint-Barnabé, Saint-Sévère, Saint-Léon-le-Grand, Saint-Paulin, Sainte-Ursule, Saint-Justin, Saint-Édouard-de-Maskinongé, Sainte-Angèle-de-Prémont, and Yamachiche; and

(10) That portion of the regional county municipality of Matawinie that includes the following municipalities: Saint-Félix-de-Valois, Saint-Jean-de-Matha, Rawdon, and Chertsey; and

(11) That portion of the regional county municipality of Papineau that includes the following municipalities: Fassett, Lochaber, Lochaber-Partie-Ouest, Mayo, Montebello, Montpellier, Mulgrave-et-Derry, Notre-Dame-de-Bon-Secours-Partie-Nord, Papineauville, Plaisance, Ripon (Village et Canton), Saint-André-Avellin (Village et Paroisse), Sainte-Angélique, Saint-Sixte, and Thurso; and

(12) That portion of the regional county municipality of Pontiac that includes the following municipalities: Bristol, Shawville, Clarendon, Portage-du-Fort, Bryson, Campbell's Bay, Grand-Calumet, Litchfield, Thorne, Allevyn-et-Cawood, Leslie-Clapham-et-Huddersfield, Fort-Coulonge, Mansfield-et-Pontefract, Waltham-et-Bryson, L'Isle-aux-Allumettes-Partie-Est, Chapeau, L'Isle-aux-Allumettes, Chichester, Sheen-Esher-Aberdeen-et-Malakoff, and Rapides-des-Joachims; and

(13) That portion of the regional county municipality of Portneuf that includes the following municipalities:

Cap-Santé, Deschambault, Donnacona, Grondines, Neuville, and Pointe-aux-Trembles.

[65 FR 38175, June 20, 2000, as amended at 67 FR 59453, Sept. 23, 2002]

§319.77-4 Conditions for the importation of regulated articles.

(a) *Trees and shrubs.*¹ (1) Trees without roots (e.g., Christmas trees), trees with roots, and shrubs with roots and persistent woody stems may be imported into the United States from any area of Canada without restriction under this subpart if they:

(i) Were greenhouse-grown throughout the year;

(ii) Are destined for a U.S. infested area and will not be moved through any U.S. noninfested areas; or

(iii) Are Christmas trees destined for a U.S. infested area and will not be moved through any U.S. noninfested areas other than noninfested areas in the counties of Aroostock, Franklin, Oxford, Piscataquis, Penobscot, and Somerset, ME (i.e., areas in those counties that are not listed in 7 CFR 301.45-3).

(2) Trees without roots (e.g., Christmas trees), trees with roots, and shrubs with roots and persistent woody stems that are destined for a U.S. noninfested area or will be moved through a U.S. noninfested area may be imported into the United States from Canada only under the following conditions:

(i) If the trees or shrubs originated in a Canadian infested area, they must be accompanied by an officially endorsed Canadian phytosanitary certificate that includes an additional declaration confirming that the trees or shrubs have been inspected and found free of gypsy moth or that the trees or shrubs have been treated for gypsy moth in accordance with part 305 of this chapter.

(ii) If the trees or shrubs originated in a Canadian noninfested area, they must be accompanied by a certification

of origin stating that they were produced in an area of Canada where gypsy moth is not known to occur.

(b) *Bark and bark products and logs and pulpwood with bark attached.*² (1) Bark and bark products or logs or pulpwood with bark attached that are destined for a U.S. infested area and that will not be moved through any U.S. noninfested area other than noninfested areas in the counties of Aroostock, Franklin, Oxford, Piscataquis, Penobscot, and Somerset, ME (i.e., areas in those counties that are not listed in §301.45-3 of this chapter) may be imported from any area of Canada without restriction under this subpart.

(2) Bark and bark products or logs or pulpwood with bark attached that are destined for a U.S. noninfested area or will be moved through a U.S. noninfested area may be imported into the United States from Canada only under the following conditions:

(i) If the bark, bark products, logs, or pulpwood originated in a Canadian infested area, they must be either:

(A) Accompanied by an officially endorsed Canadian phytosanitary certificate that includes an additional declaration confirming that they have been inspected and found free of gypsy moth or that they have been treated for gypsy moth in accordance with part 305 of this chapter; or

(B) Destined for a specified U.S. processing plant or mill under compliance agreement with the Animal and Plant Health Inspection Service for specified handling or processing.

(ii) If the bark, bark products, logs, or pulpwood originated in a Canadian noninfested area, they must be accompanied by a certification of origin stating that they were produced in an area of Canada where gypsy moth is not known to occur.

(c) *Outdoor household articles and mobile homes and their associated equipment.* (1) Outdoor household articles and mobile homes and their associated equipment that are destined for a U.S. infested area and will not be moved

¹Trees and shrubs from Canada may be subject to additional restrictions under "Subpart—Nursery Stock, Plants, Roots, Seeds, and Other Plant Products" (§§319.37 through §319.37-14 of this part) and "Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles" (§§319.40-1 through 319.40-11 of this part).

²Bark, bark products, and logs from Canada are also subject to restrictions under "Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles" (§§319.40 through 319.40-11 of this part).

through any U.S. noninfested areas may be imported from any area in Canada without restriction under this subpart.

(2) Outdoor household articles and mobile homes and their associated equipment that are being moved from a Canadian noninfested area may be imported into any area of the United States without restriction under this subpart.

(3) Outdoor household articles and mobile homes and their associated equipment that are being moved from a Canadian infested area into a U.S. noninfested area, or that will be moved through a U.S. noninfested area, may be imported into the United States only if they are accompanied by a statement, signed by their owner, stating that they have been inspected and found free of gypsy moth.

(Approved by the Office of Management and Budget under control number 0579-0142)

[64 FR 45866, Aug. 23, 1999, as amended at 65 FR 38176, June 20, 2000; 69 FR 61589, Oct. 20, 2004; 70 FR 33326, June 7, 2005; 71 FR 40878, July 19, 2006]

§ 319.77-5 Disposition of regulated articles denied entry.

Any regulated article that is denied entry into the United States because it does not meet the requirements of this subpart must be promptly safeguarded or removed from the United States. If the article is not promptly safeguarded or removed from the United States, it may be seized, destroyed, or otherwise disposed of in accordance with section 414 of the Plant Protection Act (7 U.S.C. 7714).

[64 FR 45866, Aug. 23, 1999, as amended at 66 FR 21057, Apr. 27, 2001]

PART 322—BEES, BEEKEEPING BY-PRODUCTS, AND BEEKEEPING EQUIPMENT

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AUTHORITY: 7 U.S.C. 281; 7 U.S.C. 7701-7772 and 7781-7786; 7 CFR 2.22, 2.80, and 371.3.

SOURCE: 69 FR 61747, Oct. 21, 2004, unless otherwise noted.